

# Limiting pre-release access to statistics: a consultation document

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December 2007



HM TREASURY

**Cabinet**Office







**Limiting pre-release  
access to statistics:  
a consultation document**

December 2007

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Information Policy Team  
St Clements House  
2-16 Colegate  
Norwich  
NR3 1BQ

Fax: 01603 723000

e-mail: [HMSOlicensing@opsi.x.gsi.gov.uk](mailto:HMSOlicensing@opsi.x.gsi.gov.uk)

## **HM Treasury contacts**

This document can be found in full on our website at:

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If you require this information in another language, format or have general enquiries about HM Treasury and its work, contact:

Correspondence and Enquiry Unit  
HM Treasury  
1 Horse Guards Road  
London  
SW1A 2HQ

Tel: 020 7270 4558

Fax: 020 7270 4861

E-mail: [public.enquiries@hm-treasury.gov.uk](mailto:public.enquiries@hm-treasury.gov.uk)

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# EXECUTIVE SUMMARY

**The Statistics and Registration Act 2007 is the most substantial piece of statistics legislation for 60 years and establishes an independent Statistics Board to promote and safeguard the production and publication of official statistics.**

**In order that Ministers can account immediately for the implications of statistics about policy areas for which they are democratically responsible, they are in certain circumstances given access to those statistics ahead of publication.**

As a part of the Governance of Britain programme of constitutional renewal, the **Government is proposing to tighten the principles and rules** under which pre-release access can be granted:

- **limiting pre-release access to a strict maximum of 24 hours, reduced from up to 5 working days** for certain National Statistics at present;
- requiring that **pre-release access be limited to the minimum necessary number of people** and the minimum number of **statistics**, with decisions on pre-release access taking into account the need to **reduce pre-release access to promote public trust**;
- requiring that, where pre-release access is granted, it shall be done in an **open and transparent manner**, with **details documented and published**. The need for pre-release access to a publication, and the people granted access, will be **reviewed** ahead of release of the relevant statistics;
- access will also continue to be allowed in a limited number of **special circumstances, reflecting current practice**, for example to allow the Monetary Policy Committee of the Bank of England access to statistics relating to interest rates so that it can fulfil its remit efficiently; and
- once pre-release access to a statistic in final form has been granted, that **statistic will be under embargo** – meaning that its contents cannot be shared with others until the point of publication. As now **those granted pre-release access to statistical releases must not alter or attempt to alter the content or timing of those releases**, or the way in which they are presented; and obviously **pre-release access must not be used for personal gain, or for political advantage**.

The Act provides for these **principles and rules for pre-release access** to official statistics in their final form **to be set out in secondary legislation**. **Only statistics that are deemed by the independent Statistics Board as complying with these principles and rules will be able to be badged as National Statistics.**

We **welcome views** on these proposals by 3 March 2008. Responses will inform the principles and rules on pre-release, which will be put to Parliament for approval by the Minister for the Cabinet Office. The Government aims to have the principles and rules in place as soon as possible after the start of the new system in April 2008.



# FOREWORD BY THE EXCHEQUER SECRETARY TO THE TREASURY

Official statistics matter. They describe our world – our economy and our society. They are used every day: by government, by Parliament, by business, by academics, by the media and by the wider community. They are the bedrock on which debate is built and policies are founded. And this is why they need to be, and to be seen to be, of the highest professional quality and integrity.

Following a commitment made by the then Chancellor in November 2005, and a full public consultation, legislation for the reform of the UK statistical system has been successfully delivered. The Statistics and Registration Service Act 2007, which gained Royal Assent in July, establishes an independent Statistics Board, reporting directly to Parliament, responsible for promoting and safeguarding the quality and comprehensiveness of all official statistics that serve the public good, wherever produced in government. The Act also allows principles and rules for pre-release access to statistics to be set out in secondary legislation.

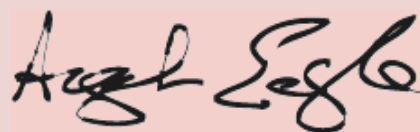
The British public expect, and the British media demands, that Ministers account for statistics at the point they are released. This democratic accountability requires that certain Ministers see statistics ahead of release. However some have commented that this access should be limited, as it contributes to a perception of ministerial interference in statistical production and dissemination.

The Governance of Britain Green Paper sets out the Government's vision and proposals for constitutional renewal. It looks at options for making the executive and Parliament more accountable. Tightening the rules for pre-release access is part of this programme.

The Government is proposing to limit pre-release access to a strict maximum of 24 hours, from as much as five days currently. We are proposing to set out clear and transparent principles and rules, requiring that pre-release be reduced to the absolute minimum needed to allow Ministers to respond, with decisions on who gets access and to what statistics taking into account the need to reduce pre-release access to promote public trust, and with these decisions to be led by statistical professionals. We believe that where pre-release access is granted, it should be done in an open and transparent manner, with details documented and published, and that there should be strict rules governing the use and dissemination of statistics ahead of publication.

Under the Statistics and Registration Service Act, the compliance of National Statistics with these principles and rules, and the Board's Code of Practice for Statistics, will – for the first time – be independently assessed, by the new Statistics Board. This means that the "National Statistics" badge on a publication will become a clear assurance to the user that transparent standards relating to the pre-release access to statistics have been met.

Our proposals aim to build on earlier reforms, reinforcing the independence and integrity of official statistics. We welcome your views.





# INTRODUCTION

**1.1** On 2 July 2007, the Exchequer Secretary to the Treasury announced to Parliament that the Government will consult publicly on the principles and rules for pre-release access to statistics in their final form.<sup>1</sup> This document fulfils that commitment.

The consultation document is structured as follows:

- Chapter 1 sets out the background to the reforms;
- Chapter 2 describes key external perspectives on pre-release access to statistics; and
- Chapter 3 puts forward the Government's proposals for tightening the principles and rules for pre-release access to statistics.

## DEVELOPMENT OF THE UK STATISTICAL SYSTEM

**1.2** A key Government objective is to build a strong economy and a fair society, with opportunity and security for all. Since 1997, the Government has introduced wide-ranging reforms to establish a platform of economic stability and to promote work and enterprise, tackle poverty and deliver sustained investment to modernise public services.

**1.3** Official statistics make a crucial contribution to effective government in a modern democracy: assisting in the formulation and evaluation of policies; in the management of the services for which the Government is responsible; encouraging and informing debate; and allowing people to judge whether or not the Government is delivering. However, the use of official statistics is wider than government – they are a public good, providing a rich and vital source of information for a range of users, in business, in academia and in the wider community. Official statistics must therefore be, and be seen to be, of the highest professional quality and integrity.

**1.4** The *Framework for National Statistics*<sup>2</sup> was introduced on a non-statutory basis in 2000. It was the furthest-reaching reform of statistics in the UK in over 30 years. The Government undertook to review the operation of the Framework after five years. Having done this, the Chancellor announced in November 2005 that the Government would build on its earlier reforms, strengthening existing arrangements by entrenching independence in legislation, helping to reinforce the quality and integrity of statistics produced in government, supporting the Government's agenda for better public services, and contributing to long-term stability in the UK economy.

**1.5** *Independence for statistics: a consultation document*, published on 22 March 2006, set out the Government's proposals and invited views from all interested parties.<sup>3</sup> In a 12-week consultation period, seventy-nine written responses were received from a

<sup>1</sup> It is for the Devolved Administrations in Scotland, Wales and Northern Ireland to set out the principles and rules for pre-release access to wholly devolved official statistics in their final form. This consultation therefore only covers pre-release access to statistics on matters that are not wholly devolved, although the Devolved Administrations may in some cases receive pre-release access to these statistics, and as such will be bound by these rules.

<sup>2</sup> The *Framework for National Statistics* is available at [www.statistics.gov.uk](http://www.statistics.gov.uk)

<sup>3</sup> *Independence for Statistics: a consultation document* is available at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk). The consultation document covered a broad range of topics relating to statistical reform, including possible changes to the current arrangements for pre-release access to statistics.

broad cross-section of the statistical community and from wider interests.<sup>4</sup> During the consultation period, the Treasury Select Committee held an inquiry into the Government's proposals for statistical independence, publishing its final report and recommendations on 26 July 2006.<sup>5</sup> The Government's response to the Committee's report, which was published by the Committee on 16 October 2006, is available on the Committee's website.<sup>6</sup>

**1.6** The Government response to the consultation<sup>7</sup> set out its proposals to strengthen further the statistical system, in light of consultation responses, and its intention to build on the momentum created by the consultation process and the Treasury Select Committee inquiry, by introducing legislation for independence for statistics in the 2006-07 Parliamentary session.

**1.7** The Statistics and Registration Service Bill was introduced into Parliament on 21 November 2006, and was widely welcomed. After detailed scrutiny in the House of Commons and the House of Lords, the Bill received Royal Assent on 26 July 2007.

## THE STATISTICS AND REGISTRATION SERVICE ACT 2007

**1.8** The Statistics and Registration Service Act 2007 is the most substantial piece of statistics legislation in the last 60 years.<sup>8</sup> It creates a new non-ministerial department, the Statistics Board, to promote and safeguard the production and publication of official statistics that serve the public good. The Board's remit extends across all official statistics, wherever they are produced – whether in the successor body to the Office for National Statistics (ONS),<sup>9</sup> in departments of the UK Government, or in the Devolved Administrations in Scotland, Wales and Northern Ireland.<sup>10</sup>

**1.9** Following a vote in Parliament, Sir Michael Scholar has been appointed as Chair Designate of the Board, to enable preparatory work to begin on the transition to the new system. The Government intends that the Board will start its work fully on 1 April 2008.

**1.10** The Statistics Board will promote good practice for official statistics, including through the development and dissemination of a Code of Practice for Statistics that will set out the best practice to be followed in producing and publishing official statistics. In drawing up the Code, the Board is expected to consult with users and producers of statistics, and to have due regard to the current *National Statistics Code of Practice*<sup>11</sup> and

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<sup>4</sup> Written responses are available on HM Treasury's website at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk). Responses relating to pre-release access to statistics are discussed in Chapter 2.

<sup>5</sup> *Independence for Statistics*, available on the Treasury Select Committee's web site at [www.parliament.uk](http://www.parliament.uk)

<sup>6</sup> *Independence for Statistics: Government Response to the Committee's Tenth Report of Session 2005-06*, available on the Treasury Select Committees web pages at [www.parliament.uk](http://www.parliament.uk)

<sup>7</sup> *Independence for Statistics: the Government's response*, available at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk)

<sup>8</sup> The Statistics and Registration Service Act 2007 is available on the website of the Office of Public Sector Information (OPSI) at [www.opsi.gov.uk](http://www.opsi.gov.uk)

<sup>9</sup> In the new system, the ONS will be formally replaced by the new executive office for the production of statistics under the leadership of the National Statistician.

<sup>10</sup> The production of official statistics relating to devolved matters is the responsibility of the Devolved Administrations in Scotland, Wales and Northern Ireland.

<sup>11</sup> The *National Statistics Code of Practice: Statement of Principles* and its twelve supporting protocols are available at [www.statistics.gov.uk](http://www.statistics.gov.uk)

international standards, such as the *European Statistics Code of Practice*<sup>12</sup> and the *UN Fundamental Principles for Official Statistics*.<sup>13</sup>

**1.11** As with the current Code, the new Code of Practice is likely to cover a wide range of areas relating to the production and publication of statistics, including topics relating to the quality, relevance, accessibility and integrity of statistics. It may cover aspects of good practice relating to the release of official statistics, including:

- the timing of statistical releases;
- the way in which statistics should be released; and
- who should be responsible for issuing the release.

**1.12** The Board will monitor, and report on, the production and publication of official statistics. To do this, the Board will need to evaluate the need for official statistics and compare this need with the statistics that are produced.

**1.13** The Board will assess a core set of official statistics against the Code of Practice for Statistics, and publish the results of these assessments.<sup>14</sup> If statistics comply with the Code, the Board will approve them as National Statistics. Statistics that fail to comply with the Code will not be approved as National Statistics. This work – led by the Board’s Head of Assessment – will mean that users of statistics will have independent confirmation of the quality of statistics produced by government, with the “National Statistics” badge on a publication becoming a clear assurance to the user that transparent standards for the production of statistics have been met.

**1.14** The other key aspect of the Board’s role is to provide the top governance layer for its executive office, which will carry out the statistical functions presently performed by ONS, replacing the role currently undertaken by Ministers. While the National Statistician<sup>15</sup> will continue to run the executive office on a day-to-day basis, the Statistics Board will set the body’s strategic direction, ensure that its processes and plans are robust, and hold it to account for its delivery of those plans. The Statistics and Registration Service Act contains a range of measures to ensure that production of statistics will be separate from, and independent of, the assessment of those statistics.

**1.15** Finally – although this is not in the legislation – the Board is expected to develop and maintain a central publication hub for the first release of those National Statistics that are within the responsibility of the UK government. The hub will make clear the separation between statistical releases and any policy statements coming out of government departments that relate to those statistics.

**1.16** As a necessity there will be some residual Ministerial responsibilities in respect of the Board, including acting as a link with Parliament through laying the Board’s annual report and as the conduit for Parliamentary Questions answered by the Board and National Statistician; and in line with clear precedent, a role in appointments, which will be conducted in line with the Commissioner for Public Appointments

<sup>12</sup> The *European Statistics Code of Practice* is available at <http://epp.eurostat.ec.europa.eu>

<sup>13</sup> The *UN Fundamental Principles for Official Statistics* are available at <http://unstats.un.org>

<sup>14</sup> The Board will assess those statistics that are National Statistics under the current system, as well as assessing any additional statistics nominated for assessment by Ministers (or the National Statistician for statistics produced by the Board).

<sup>15</sup> The National Statistician is the Director of ONS, the Head of the Government Statistical Service and the chief statistical adviser to the Board and the Government.

guidance. These residual responsibilities will be carried out by the Minister for the Cabinet Office.

**1.17** In developing these reforms, the Government decided to retain the current decentralised system of statistical production, with the ONS retaining its position as the central statistical producer (although in a new legal form, as the Board's executive office) and policy departments retaining responsibility for their present statistical outputs. For example, the Home Office produces crime statistics, the Department of Health produces statistics on hospital waiting lists and Department for Children, Schools and Families produces GCSE and A-level statistics. Such a system keeps statisticians close to data suppliers and users, giving them a better understanding of their data, and also maintains statistical expertise across government.

## RULES AND PRINCIPLES FOR PRE-RELEASE ACCESS TO STATISTICS

**1.18** Under the current Framework for National Statistics, Ministers and certain officials have access to statistics ahead of their publication. The National Statistics Code of Practice is supported by a *Protocol on Release Practices*<sup>16</sup> that establishes the conditions under which such access can occur.

**1.19** In practice, there are three types of early access within the UK system, each underpinned by a clear rationale:

- access to administrative and management data, which may be circulating among officials and Ministers, because they form part of a department's daily business;
- access to statistics by officials, as part of the compilation and quality assurance process through which official statistics are produced; and
- access by Ministers and officials to the final data in advance of publication, to enable Ministers to account for the policy implications of statistics at the time of publication and, in certain circumstances, to be in a position to announce policy decisions, or act in other ways, when the data is released.

**1.20** This third type of early access to statistics in their final form is generally known as pre-release access. It allows Ministers to account for the implications of policy areas for which they are democratically responsible at the time of release, as the public and media have come to expect. In addition, it allows Ministers – and the officials supporting them – to be fully informed in order to make accurate judgements as to the need and form of any immediate action that might be required in light of a statistical release.

**1.21** At present, under the rules set out in the Protocol on Release Practices, Ministers may have up to five days pre-release access to National Statistics in general, and up to 40.5 hours for market sensitive statistics.<sup>17</sup> This means that Ministers responsible for topics where many market sensitive statistics are of relevance will typically have different pre-release access to those responsible for areas where fewer market sensitive

<sup>16</sup> The *National Statistics Code of Practice: Protocol on Release Practices* is available at [www.statistics.gov.uk](http://www.statistics.gov.uk). In addition to setting out the conditions under which access can be given to statistics ahead of release, the Protocol on Release Practices covers a number of topics unrelated to this issue, such as the timing of releases. In the new system, rules on topics unrelated to pre-release access for statistics in their final form will be for the Board to set out in its Code of Practice for Statistics.

<sup>17</sup> Pre-release access at 40.5 hours ahead a 9:30am release equates to access at 5:00pm two days before release.

statistics are relevant. The Protocol on Release Practices also sets out a number of special cases where access to statistics may be given outside the normal rules, for example to allow the Monetary Policy Committee of the Bank of England to take informed decisions in setting interest rates.

**1.22** Sometimes pre-release access is cited as a contributing factor to problems around trust and confidence in official statistics. Whilst there is no reason to believe there is a problem of substance, the Government recognises there may be an issue of perception and is therefore committed to tackling any perception of Ministerial interference in statistics. It has therefore given pre-release a special status in the new system, with the pre-release arrangements to be set out in secondary legislation. This is distinct from the Board's Code of Practice, which is backed by statute but not set out in legislation.

**1.23** Under the Statistics and Registration Service Act, principles and rules for pre-release access to official statistics in their final form will be set out in an Order, made by the Minister for the Cabinet Office under the affirmative Parliamentary procedure.<sup>18</sup> This means that, unlike the content of the broader Code of Practice, the new pre-release arrangements will require the consent of Parliament before they come into force. Putting new, tighter pre-release arrangements in secondary legislation will result in a more enforceable, transparent system than that which operates at present. A draft of the Order, consistent with the proposals in this consultation document, is included at Annex A.

**1.24** The Government will use responses to this consultation to inform the principles and rules for pre-release that will be put to Parliament for approval. Before the Order is made the Statistics Board and the Devolved Administrations will also be consulted, as is required under the Statistics and Registration Service Act.

**1.25** Under the Act, the Board has a legal duty to assess compliance with the principles and rules for pre-release, as a part of its assessment of statistics against the Code of Practice. The Board will be able to remove National Statistics status from any official statistics that it considers are being shared ahead of publication in a way that is not compliant with the principles and rules for pre-release.

## REVIEW AFTER 12 MONTHS

**1.26** The Government has undertaken to review the operation of the new pre-release arrangements after 12 months, including to assess whether they remain consistent with the broader objective of building trust in the statistical system.

## AN OPEN CONSULTATION

### How to respond

**1.27** The Government welcomes the views of all stakeholders on the issues raised in this document. The consultation period begins with the publication of this document, and will run for 12 weeks. Please ensure that your response reaches us by 3 March 2008.

**1.28** Responsibility for setting the principles and rules for pre-release will be passed from Treasury to Cabinet Office during the period of the consultation. The Cabinet

<sup>18</sup> Under the Act it is for the Devolved Administrations to make principles and rules for wholly devolved statistics. This consultation relates only to the principles and rules for UK official statistics.

Office will therefore publish a report summarising, and responding to, the consultation responses, and will prepare the principles and rules on pre-release. These will then be put to Parliament for approval, informed by the views expressed by those responding to this consultation.

**1.29** Responses to the consultation, or queries on the consultation, should be sent to:

Statistical Reform Team  
HM Treasury  
1 Horse Guards Road  
LONDON SW1A 2HQ  
E-mail: statsconsultation@hm-treasury.gov.uk  
Fax: 020 7451 7632

In line with the transfer of responsibilities from Treasury to Cabinet Office, responses sent to these addresses will be passed to Cabinet Office.

**1.30** This document can also be found at [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk).

**1.31** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

**1.32** All written responses may be made public unless the author specifically requests otherwise, soon after the consultation period closes. In the case of electronic responses, general confidentiality disclaimers that often appear at the bottom of emails will be disregarded for the purpose of publishing responses unless an explicit request for confidentiality is made in the body of the response. If you wish part, but not all, of your response to remain confidential, please supply two versions – one for publication on the website with the confidential information deleted, and another confidential version for the Statistical Reform Team.

**1.33** Even where confidentiality is requested, if a request for disclosure of the consultation response is made in accordance with the freedom of information legislation, and the response is not covered by one of the exemptions in the legislation, the Government may have to disclose the response, in whole or in part.

## The consultation criteria

**1.34** The consultation is being conducted in line with the Code of Practice on Consultation, which contains six key criteria to govern a written consultation. These are set out in Annex B.

# 2

## EXTERNAL PERSPECTIVES ON PRE-RELEASE

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**2.1** Pre-release access to statistics has been a topic of debate in the statistical community in recent years, often in the context of international practice. This chapter outlines some of the views that have been expressed up to now on pre-release, and briefly discusses the international perspective.

### EXTERNAL VIEWS

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**2.2** Many people have expressed views on pre-release access, especially during the development of the government's reforms and during the Parliamentary debates on the Statistics and Registration Service Act.

### Responses to Independence for Statistics consultation

**2.3** In the consultation document, *Independence for Statistics*, the Government stated that it intended to consider how pre-release access might operate in the future and welcomed views on possible changes to the current arrangements.

**2.4** The Government received many helpful responses to this consultation, many of which discussed pre-release access to statistics, including from the Statistics Commission, the Royal Statistical Society and the Statistics User Forum (a full list of consultation respondents is given in Annex D).

**2.5** However there was no real consensus amongst respondents as to how release practices ought to operate under the new arrangements, with a number of different systems and time periods proposed. Some believed that pre-release access to statistics should be abolished, while others believed it should be substantially restricted, with the Royal Statistical Society arguing that there "should be no pre-release access to statistics by anyone (including Ministers and policy advisers) outside the statistical production team until the statistics are released generally".

### Treasury Select Committee report

**2.6** In their report *Independence for Statistics*, the Treasury Select Committee accepted that "Ministers should have pre-release access to official statistics in order to allow them to give a substantive and considered response to statistics upon release", but called for the length of time such access is available to be shortened, recommending that ministers receive pre-release access of no more than three hours for non-market sensitive data and a longer time period for market sensitive data, with ministers receiving pre-release access on the day prior to release, after the markets have closed.

**2.7** In addition to changes to Ministers' pre-release access, the Treasury Select Committee recommended further reform was needed in respect of civil servants' pre-release access to statistics, suggesting that future rules cover the use of data prior to official release by all government personnel.

### Parliamentary debate

**2.8** During the debates on the Statistics and Registration Service Bill, pre-release access to statistics was often discussed, in both the House of Commons and House of Lords. There was a general acceptance of the principled case for pre-release access to continue under the new system, to allow Ministers to account at the time of release for

the implications of policy areas for which they are democratically responsible and to make accurate judgments as to the need and form of any immediate action that might be required in the light of a statistical release.

**2.9** There was considerable debate about the provisions for pre-release, and in particular whether rules for pre-release should be decided by the Board. Parliament decided to give the powers to develop these rules to Ministers.

**2.10** Many members of Parliament also argued for a substantial reduction in the time available for pre-release access to statistics, often recommending strengthening the rules under which pre-release access is given, with one MP, for example, suggesting “limiting the range of statistics to which it applies, reducing the number of people who are granted access and ... the period of access.”

**2.11** Towards the end of the Parliamentary debates, following the Prime Minister’s announcement in June that, as part of the wider proposed programme of constitutional reforms, the appointment of the Chair of the Statistics Board would be subject to a vote in the House of Commons, Sir Michael Scholar’s selection as Chair was endorsed by Parliament, after a short inquiry by the Treasury Committee. During the Committee’s examination of Sir Michael, pre-release access was discussed, including the period for which pre-release access should be granted.

## INTERNATIONAL PRACTICE

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**2.12** The principle of early access to data for Ministers is widely accepted and established internationally, with many countries – including Australia, France, Ireland, Germany, and the USA – having in place some form of pre-release regime. Each country’s arrangements reflect its different circumstances and customs.

**2.13** In those countries where pre-release is allowed, there is no common length of pre-release access, although many Ministers get the information the day before release. Some countries only give Ministers pre-release access to market sensitive statistics and others give pre-release access to all types of statistics, whether they are market sensitive or not.

### International standards

**2.14** The European Union has sought to agree underlying principles for good practice in its members’ statistical systems, promoting a voluntary *Code of Practice on European Statistics*,<sup>19</sup> which states that any privileged pre-release access to statistics should be limited, controlled and publicised.

**2.15** The *IMF Special Data Dissemination Standard*<sup>20</sup> was established by the IMF in 1996 to guide members that already had, or that might seek, access to international capital markets in providing key economic and financial data to the public. It explicitly recognises the principled case for pre-release to Ministers and prescribes that those pre-release practices which governments deem appropriate should be published and fully transparent. The UK subscribes to, and fully complies with, pre-release disclosure requirements as set out in the standard.

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<sup>19</sup> The *European Statistics Code of Practice* is available at <http://epp.eurostat.ec.europa.eu>

<sup>20</sup> The *IMF Special Data Dissemination Standard* is available at <http://dsbb.imf.org>

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## CONCLUSION

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### 2.16 In summary:

- international standards set out that pre-release access should be limited, controlled and transparent;
- international practice is mixed, reflecting different circumstances in each country; and
- a number of external commentators, and Members of Parliament, have suggested that pre-release access in the UK should be tightened.

Chapter 3 sets out the Government's proposals for pre-release access, in light of these perspectives.



# 3

## THE GOVERNMENT'S PROPOSALS

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*"I propose that we reduce the advance sight that Government Departments have of the release of statistical information from as much as five days currently to just 24 hours."*

**The Prime Minister, the Rt. Hon Gordon Brown MP, 3 July 2007**

### THE GOVERNANCE OF BRITAIN

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**3.1** *The Governance of Britain* Green Paper was published by the Government on 3 July 2007.<sup>21</sup> The document explores the rights and responsibilities that shape the relationships which the people of this country have with each other. It considers the relationship people have with the institutions of the state, at a local, regional and national level.

**3.2** The Green Paper considers limiting the powers of the executive, making the executive more accountable, re-invigorating our democracy and concepts of citizenship and Britishness. The proposals in this consultation document are a part of the Governance of Britain programme.

### RULES AND PRINCIPLES FOR PRE-RELEASE

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**3.3** The public and media often expect that Ministers are able to account immediately for the implications of statistics about policy areas for which they are democratically responsible. Some have suggested, however, that the existing arrangements for giving Ministers advance sight of National Statistics are overly generous and contribute to a perception of Ministerial interference in statistics, which in turn has an impact on trust in statistics.

**3.4** This chapter therefore sets out proposals for tightening the current arrangements, setting out requirements that will mean that pre-release access must always be justified, limited and transparent. Where appropriate, these proposals will be set out in secondary legislation, with principles and rules requiring departments both to minimise the number of people that receive pre-release access and to limit the number of statistics to which they have access. These rules will not cover wholly devolved statistics, as it is for the Devolved Administrations in Scotland, Wales and Northern Ireland to set out their own principles and rules for pre-release access to the official statistics in their final form for which they have responsibility. A draft of the proposed secondary legislation is provided at Annex A.<sup>22</sup>

**3.5** Where it is not possible to set out the Government's proposals in the secondary legislation, because they are not within the scope of the Order as set out in the Statistics

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<sup>21</sup> *The Governance of Britain* is available at [www.justice.gov.uk](http://www.justice.gov.uk)

<sup>22</sup> Nothing in these principles and rules is intended to prevent those involved in the production and dissemination of a statistic from carrying out work which will inevitably require them to see statistics before release, sometimes in advance of the 24 hours pre-release period. This includes those individuals involved in quality assurance of the statistics and in their publication. In addition, as set out in Chapter 1, these principles and rules are not intended to restrict the normal flow of administrative and management information that circulates in departments and so will not apply to statistics not in their final form (which will instead be covered by the Board's Code of Practice).

and Registration Service Act 2007, they will form a part of wider guidelines for pre-release access to statistics in their final form.

**3.6** As set out in Section 11 of the Act, the principles and rules for pre-release only cover access to official statistics in their final form prior to publication. The Code of Practice for Statistics can cover all other topics, including a number that are closely linked to pre-release, such as rules relating to access to statistics not in their final form, and wider issues relating to the release of statistics such as the content, format, and timing of statistical releases.

**3.7** The Board will assess prospective and current National Statistics against the principles and rules for pre-release, as well as against the broader Code of Practice that the Board will produce. As with the Code, the principles and rules will apply to all official statistics, but will only be assessed by the Board in relation to National Statistics.

**3.8** While the contents of the future Code of Practice for Statistics will be for the Board to determine, the Government remains committed to the principles underlying the current Code of Practice, including the quality, integrity, comprehensiveness and accessibility of statistics, along with the general principle of equal access to statistics. In addition, the Government undertakes to work in a way that is consistent with the spirit of the Statistics and Registration Service Act and the principles and rules that will be set out in the Order on pre-release.

### **Reducing the number of people receiving pre-release**

**3.9** The Government proposes that pre-release should be strictly limited, only being granted to ensure those Ministers with the relevant policy or operational responsibility are able to respond – whether in words or in action – at the time of release. A statistic would be eligible for the granting of pre-release access only where to withhold access would impede the ability of the Minister to respond at the time of release.<sup>23</sup>

**3.10** Ministers need to be advised on statistics by officials, who must be able to explain what the statistics mean and the implications of those statistics, as well as advising Ministers on their response to the statistics. In many cases, however, the officials advising and responding on behalf of Ministers are not the statisticians who produce the statistics, and need pre-release access themselves in order that they can carry out these functions.

**3.11** Statistical releases can be complex, requiring considerable time to understand and explain properly. Some statistical releases cover many topics, and in these cases, expertise from a number of officials may be needed to advise ministers and suggest possible responses. However it is intended that pre-release access should not be extended simply because someone needs to be aware of new data generally, and not be granted to officials simply because they are in the line management chain above those providing advice.

**3.12** To achieve the appropriate balance between the legitimate need of government for pre-release access and the need to minimise pre-release access in the pursuit of public trust, the Government proposes to require that pre-release access be minimised in decisions about the number of people who may get pre-release access to statistics and what statistics they have access to.

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<sup>23</sup> The emphasis here is on Ministers but there will be instances where others such as the Chief Executive of an agency are expected to respond on the release of statistics in much the same way as a minister. Such persons may be granted access on the same grounds as Ministers.

**3.13** To ensure that people do not get pre-release access merely because they received it in the past, the Government proposes to require that decisions on pre-release access be reviewed ahead of that access being granted.

### Reducing the length of pre-release access

**3.14** Some have suggested that the amount of time currently given for pre-release access – up to five working days for certain National Statistics – is overly generous. As set out by the Prime Minister in a speech to Parliament on constitutional reform on 3 July 2007, the Government proposes that the advance sight that certain Ministers and officials have of statistical information be reduced to a strict maximum of just 24 hours.<sup>24</sup> This means that for statistics published at 9:30am, pre-release access could be granted from 9:30am the day before.<sup>25</sup> This limit would apply both to Ministers and the officials advising them.<sup>26</sup>

### Leadership by professionals

**3.15** As defined in the Statistics and Registration Service Act, the person responsible is the National Statistician in the case of official statistics produced by the Board, the Minister in charge of a department for official statistics produced by that department, and the person producing the statistics in any other case.

**3.16** It is ultimately the responsibility of the person responsible for an official statistic to determine pre-release access to that statistic, however, in order to distance the decision making on pre-release from Ministers, the Government proposes to undertake to give a formal role in applying the pre-release principles and rules to departmental Heads of Profession for Statistics.<sup>27</sup>

**3.17** Heads of Profession would play a central role in carrying out the Order, with support from Ministers and Permanent Secretaries in doing so, seeking advice and guidance from the Board and the National Statistician as required. This will mean that the decision-making process for pre-release access – including ensuring awareness of the rules, monitoring compliance, and determining which statistics are eligible for pre-release and who gets pre-release access – will be led by statistical professionals.<sup>28</sup>

### Preventing the misuse of statistics

**3.18** The Government proposes to require that once pre-release access to a statistic in final form has been granted, that statistic will be under embargo – meaning that its contents cannot be shared with others until the point of publication (even if publication is delayed beyond the expected publication time). Being under an embargo not only means that the person with pre-release access must not reveal the figures, but also that they must not reveal, hint or speculate about the trend or direction of the figures.

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<sup>24</sup> The Prime Minister's speech is available at [www.number10.gov.uk](http://www.number10.gov.uk)

<sup>25</sup> Certain statistics are currently published on a Monday at 9:30am. This limit to the time available for pre-release access could either mean that pre-release access to those statistics is available to Ministers and officials on the Sunday, or might mean that the day of publication was changed, so that those statistics were no longer published on a Monday.

<sup>26</sup> The 24 hours would be measured in real time, irrespective of weekends, bank and public holidays, and working hours.

<sup>27</sup> Departmental Heads of Profession for Statistics are responsible for the professional integrity of National Statistics produced by their department, and are appointed by the Permanent Secretary of the department, taking into account the views of the National Statistician. The Order sets out the responsibility of Ministers and other persons producing official statistics. It is fully intended, however, that Heads of Profession will play the central role in determining pre-release access in practice.

<sup>28</sup> Where statistics are being produced by non-departmental public bodies or agencies, the intention is that the Head of Profession for Statistics of the sponsor department would normally play this lead role.

**3.19** In addition, Government proposes to require that those granted pre-release access to statistical releases must not alter – or attempt to alter – the content or timing of those releases, or the way they are presented. The Government also proposes to set out that pre-release access must not be used for personal gain, or for political advantage.

**3.20** To promote transparency, arrangements made to ensure compliance with these rules must be published. It is expected that such arrangements would set out how the person receiving pre-release access should be made fully aware of the conditions under which they receive the statistics early, including being reminded of the limitations in the principles and rules and the consequences of breaching the rules. Whenever pre-release access is granted, it is intended that the final form of the statistical release would have appropriate protective security markings.

### Transparency and reporting

**3.21** Where pre-release access is granted, the Government proposes that it should be done in an open and transparent manner, with details of the people to whom pre-release has been granted documented and published so that they are readily available to the users of relevant statistics.<sup>29</sup>

**3.22** The current Protocol on Release Practices requires that the National Statistician be told of accidental and wrongful release. Building on this and to allow the Board to make a proper assessment of the extent to which the principles and rules have been complied with for National Statistics, the Government proposes that if the Head of Profession – on behalf of the person responsible – becomes aware that the principles and rules have not been fully complied with, they should notify the Board, take action to prevent recurrence and provide a written explanation to the Board.<sup>30</sup>

### SPECIAL CASES

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**3.23** In certain circumstances access to statistics is currently granted ahead of release in a way that goes beyond the principle of enabling Ministers to respond fully. The Government proposes to allow such access to continue in a number of narrow categories that are operationally justified and in line with current practice as permitted by the current National Statistics Code of Practice Release Practices Protocol.

These cases are as follows:

- access to certain statistics is given to the Governor of the Bank of England, and members of the Monetary Policy Committee (MPC) in certain circumstances, to allow the MPC to fulfil its remit efficiently, and to allow the Bank to act in respect of any financial market disruption that might be triggered on the release of market sensitive statistics. Such access may be longer than 24 hours where this is necessary for the Bank to fulfil its functions efficiently. For example, additional pre-release access may be provided to the Bank to allow the Bank to write to the Chancellor in the case that the Consumer Prices Index (CPI) moves outside the range set out in the Bank's remit, and to the Treasury to allow the Chancellor's response to the

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<sup>29</sup> These details could be published on departmental websites – as now – or might be published on a website associated with the central hub that the Board will manage, if the Board agreed to such a proposal.

<sup>30</sup> These requirements will be in guidelines associated with the principles and rules.

Bank's letter to be prepared, permitting both of these letters to be published at 10:30 on the day the CPI is published.<sup>31</sup>

- access ahead of release may be granted to journalists, to allow them to absorb and understand the significance of a given release, and to ensure that any articles they write are based on a proper appreciation of the facts. This is intended to replicate current practice whereby journalists may receive embargoed advance access to complex reports of non-market sensitive information, or may be subject to a “lock-in” with market sensitive statistics, in a secure environment for a short period of time up to the point of release. Journalists receiving such access may not pass the official statistics on to others. The Government proposes that the maximum time for which such access be given in the future is 24 hours, although in many cases the time will be considerably shorter (and might be as little as half an hour for a lock-in).
- access is sometimes required to be given to international organisations ahead of release, under European or international law.
- access may be granted to allow statistics to be included in reports that are to be published at the same time as, or shortly after, those statistics. Such access would only be allowed for important reports where the inclusion of the most up to date version of a statistic would be expected to improve significantly the value of the report to users. One example of such access is the use of certain statistics in the preparation of HM Treasury forecasts underlying the Budget and pre-Budget reports. This type of access could also be used to ensure that simultaneous statistical publications on the same topic by the UK Government and Devolved Administrations are consistent with each other.

**3.24** In addition to these categories, the Government proposes to make additional provision for exceptional pre-release access, in order to allow for events that we are not able to predict at this stage. All instances of such access should be notified to the Board and be published. The Government intends to use this only in exceptional circumstances and undertakes not to use it without the consent of the Board.

**3.25** The Government proposes that pre-release in these special and exceptional circumstances should have safeguards like those provided for pre-release access for Ministers – being led by statistical professionals, being transparent and having limits on the use and disclosure of the statistics.

## SECONDARY LEGISLATION

**3.26** As set out in Chapter 1, the principles and rules for pre-release access to official statistics in their final form will be set out in an Order, made by the Minister for the Cabinet Office under the affirmative Parliamentary procedure. This means that, unlike

<sup>31</sup> The Governors of the Bank and MPC (along with staff, as appropriate) will need to have pre-release access to: assist in the decision-making of the Monetary Policy Committee in setting interest rates; allow the preparation of the Bank's open letter to the Chancellor in the case that the Consumer Prices Index moves outside the range set out in the Bank's remit; allow the Bank to publicly respond to published statistics that bear on interest rates; and allow the Bank to assess whether financial market disruption might be triggered on release of market sensitive statistics and so prepare, if necessary, for mitigating statements or other action. In addition, in certain limited and justified cases, the Treasury may need access where the Bank has access in line with its responsibility for the effective co-ordination of fiscal and monetary policy. It will be for the National Statistician, as person responsible, to apply the principles and rules, after full discussions with the Bank to understand their needs, perhaps setting out exact limits in a Service Level Agreement with the Bank. This access is not expected to be longer than the access currently provided.

the content of the broader Code of Practice, the new pre-release arrangements will require the consent of Parliament before they come into force. Putting new, tighter pre-release arrangements in secondary legislation will result in a more enforceable, transparent system than that which operates at present.

**3.27** The Government will use responses to this consultation to inform the principles and rules for pre-release that will be put to Parliament for approval. Before the Order is made the Statistics Board and the Devolved Administrations will also be consulted, as is required under the Statistics and Registration Service Act.

**3.28** Under the Act, the Board has a legal duty to assess compliance with the principles and rules for pre-release, as a part of its assessment of statistics against the Code of Practice. The Board will be able to remove National Statistics status from any official statistics that it considers are being shared ahead of publication in a way that is not compliant with the principles and rules for pre-release.

## **REVIEW OF THE PRINCIPLES AND RULES FOR PRE-RELEASE**

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**3.29** As set out in Chapter 1, the Government intends to review the operation of the new pre-release arrangements after 12 months, including assessing whether they remain consistent with the broader objective of building trust in the statistical system.

## **CONCLUSION**

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**3.30** The proposals above were developed in light of the many helpful responses to the previous consultation – including from key stakeholders such as the Royal Statistical Society and the Statistics Commission, the valuable work of the Treasury Select Committee and the detailed scrutiny of the Statistics and Registration Service Act by MPs and Lords during its legislative passage.

**3.31** The Government believes that these proposals are the best way to tighten the arrangements for pre-release access, while still allowing Ministers to respond at the point statistics are released.

**3.32** The Government welcomes the views of all on the proposals in this chapter, by 3 March 2008. Responses will inform the Government's final proposals for the principles and rules on pre-release, which will be put to Parliament for approval by the Minister for the Cabinet Office.

# A

## DRAFT ORDER SETTING OUT PRINCIPLES AND RULES

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**A.1** This annex contains the draft Order on pre-release access to statistics, reflecting Government’s proposals as set out in Chapter 3.

**A.2** Certain phrases defined in the Statistics and Registration Service Act appear in the draft Order below. These are:

- “pre-release access”, which in relation to official statistics, means access to the statistics in their final form prior to publication;
- “person responsible”, which in relation to any official statistics, means:
  - (a) in the case of official statistics produced by the Board, the National Statistician,
  - (b) in the case of official statistics produced by a government department, the Minister in charge of the department, and
  - (c) in any other case, the person producing the statistics.

*Draft Order laid before Parliament under section 65(5) of the Statistics and Registration Service Act 2007, for approval by resolution of each House of Parliament.*

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### DRAFT STATUTORY INSTRUMENTS

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**2008 No.**

**STATISTICS**

**PRE-RELEASE ACCESS TO STATISTICS ORDER 2008**

*Made* - - - - - \*\*\*

*Coming into force* - - - - - \*\*\*

This Order is made in exercise of the powers conferred by section 11(2), (4) and (5) of the Statistics and Registration Service Act 2007 <sup>(32)</sup>.

The Minister for the Cabinet Office has consulted the Statistics Board, Scottish Ministers, the Welsh Ministers and the Department of Finance and Personnel for Northern Ireland.

A draft of this Order has been approved by resolution of each of House of Parliament pursuant to section 65(5) of the Statistics and Registration Service Act 2007.

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<sup>(32)</sup> 2007 c.18.

The Minister for the Cabinet Office makes the following Order:

### Citation and commencement

1.—(1) This Order may be cited as the Pre-release Access to Statistics Order 2008 and shall come into force on \*\*\* 2008.

### Pre-release access

2.—(1) The Schedule sets out the rules and principles relating to the granting of pre-release access to official statistics.

(2) The Schedule has effect.

Minister for the Cabinet Office

Date

## SCHEDULE

Article 2

### PART 1

#### Generally applicable rules and principles

1. Pre-release access may only be granted in accordance with the rules and principles set out in this Schedule.
2. Only the person responsible may grant pre-release access.
- 3.—(1) The person responsible—
  - (a) may only grant pre-release access where to deny such access would, in the opinion of the person responsible, significantly impede—
    - (i) the provision of responses to questions or the making of statements about an official statistic at or shortly after the time of publication of that statistic;
    - (ii) the taking of action before, at the time of or shortly after publication of that statistic;
  - (b) may only grant pre-release access to an eligible person;
  - (c) must not grant pre-release access unless in the opinion of the person responsible the public benefit likely to result from such access outweighs the detriment to public trust in official statistics likely to result from such access;
  - (d) must keep to the minimum necessary for achieving the purposes referred to at paragraph 3(1)(a) the number of persons to whom pre-release access is granted; and
  - (e) may grant pre-release access subject to conditions.
- (2) For the purposes of this paragraph “eligible person” means—
  - (a) a Minister of the Crown;
  - (b) the head of a government department;
  - (c) a member of the Scottish Executive;
  - (d) a junior Scottish Minister;
  - (e) a member of the Welsh Assembly Government;
  - (f) a Northern Ireland Minister;
  - (g) a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the Northern Ireland Act 1998;

- (h) a person who, in the opinion of the person responsible is otherwise accountable to the public for the formulation or development of government policy or for the delivery of public services to which the statistic has direct relevance; or
    - (i) a person who needs pre-release access in order to advise or assist a person referred to in paragraphs (a) to (h).
  - (3) For the purposes of this paragraph “government policy” includes the policy of the Scottish Administration, the policy of the Executive Committee of the Northern Ireland Assembly and the policy of the Welsh Assembly Government.
4. The person responsible may not grant pre-release access for a period in excess of 24 hours prior to the time set for the publication of an official statistic.
- 5.—(1) In exceptional circumstances only, the person responsible may grant pre-release access for a period in excess of 24 hours prior to the time set for the publication of an official statistic if the person responsible considers that the detriment to the public interest in withholding such access significantly outweighs the detriment to public trust in official statistics likely to result from such access.
- (2) The provisions of paragraph 3, except for paragraphs 3(1)(d) and (e), do not apply in respect of the granting of pre-release access under this paragraph.
  - (3) The number of persons to whom pre-release access is granted must be kept to the minimum necessary for achieving the purpose for which such access is granted.
  - (4) The person responsible must publish the reasons for granting such access.
6. Where pre-release access to an official statistic is granted, a person to whom it is granted must not disclose—
- (a) the statistic,
  - (b) any part of a publication which includes that statistic, or
  - (c) any suggestion of the size or direction of any trend indicated by the official statistic,
- until after the official statistic has been published.
7. Pre-release access must not be used for political advantage or personal gain.
8. Pre-release access—
- (a) must not be used to change or compromise the content or presentation of the official statistic, and
  - (b) must not be used to change or compromise the timing of publication of the official statistic.
9. The person responsible may only grant pre-release access to market sensitive official statistics to a person (“P”) who has signed a declaration that P undertakes, in relation to any such statistics to which P is granted pre-release access, to comply with paragraphs 6, 7, and 8 together with any specific conditions subject to which such access is granted.
10. The person responsible must publish—
- (a) a list of all official statistics to which pre-release access has been granted,
  - (b) at the same time as or prior to the publication of an official statistic, a list of the job titles of persons who have had pre-release access to that statistic, and
  - (c) arrangements made so as to ensure compliance with this Schedule.

## PART 2

### Special provisions

#### Bank of England

11.—(1) The person responsible may grant pre-release access to an eligible person if, in the opinion of the person responsible, such access is needed for the better performance by the Bank of England of its functions.

(2) For the purposes of this paragraph an “eligible person” means—

- (a) the Governor of the Bank of England;
- (b) a deputy Governor of the Bank of England;
- (c) a member of the Monetary Policy Committee; or
- (d) an employee, servant or agent of the Bank.

(3) The person responsible may, for a purpose set out in paragraph (5), grant pre-release access to a Treasury eligible person to any statistics to which access has been granted to an eligible person under sub-paragraph 11(1).

(4) For the purposes of this paragraph a “Treasury eligible person” means—

- (a) a person designated by the Treasury to attend, as a representative of the Treasury, a meeting of the Monetary Policy Committee pursuant to paragraph 13 of Schedule 3 to the Bank of England Act 1998<sup>(33)</sup>;
- (b) the Chancellor of the Exchequer; or
- (c) a person who needs pre-release access in order to advise or assist a person referred to in paragraph (a) or (b).

(5) The purposes referred to at paragraph (3) are—

- (a) the effective co-ordination of fiscal and monetary policy; or
- (b) the preparation of any communication from the Treasury to the Bank in relation to a notice given by the Treasury to the Bank under section 12 of the Bank of England Act 1998.

(6) The number of persons to whom pre-release access is granted under this paragraph must be kept to the minimum necessary for achieving the purpose for which such access is granted.

(7) Such access must be kept to a minimum time period necessary to achieve the purpose for which such access is granted.

(8) Such pre-release access may be granted subject to such conditions as the person responsible sees fit.

(9) The person responsible must not grant pre-release access under this paragraph unless, in the opinion of the person responsible, the public benefit likely to result from such access outweighs the detriment to public trust in official statistics likely to result from such access.

(10) The person responsible may only grant pre-release access to market sensitive official statistics to a person (“P”) who has signed a declaration that P undertakes, in relation to any such statistics to which P is granted pre-release access, to comply with paragraphs 6, 7 and 8 together with any specific conditions subject to which access is granted.

(11) Paragraphs 3, 4 and 5 do not apply to the granting of pre-release access under this paragraph.

#### International obligations

12.—(1) The person responsible may grant pre-release access to permit the UK to comply with its international obligations to provide data to international statistical organisations.

(2) Part 1, except for paragraphs 1 and 2, does not apply to the granting of pre-release access under this paragraph.

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<sup>(33)</sup> 1998 c.11.

## Journalists

- 13.—(1) The person responsible may grant pre-release access up to a maximum period of 24 hours prior to publication of an official statistic, to bona fide representatives of news gathering or news reporting organisations.
- (2) The person responsible may grant such pre-release access if, in the opinion of the person responsible such access—
- (a) is necessary for bona fide representatives of news gathering or news reporting organisations to understand the statistic and, where relevant, a statistical publication which includes that statistic, and
  - (b) will facilitate well-informed debate.
- (3) The period for which such pre-release access is granted must be kept to the minimum necessary to achieve the purpose referred to at paragraph 13(2).
- (4) The person responsible may impose such conditions on the granting of pre-release access as the person responsible considers appropriate including—
- (a) that pre-release access must take place in such secure location as may be specified by the person responsible;
  - (b) that no communication equipment may be used at that location except as may be permitted by the person responsible; or
  - (c) that a person to whom pre-release access under this paragraph is intended to be granted and before such access is granted must agree to comply with any conditions imposed by the person responsible.
- (5) Part 1, except for paragraphs 1, 2, 3(c), 3(e), 4, 6, 7 and 8, does not apply to the granting of pre-release access under this paragraph.

## Publications

- 14.—(1) The person responsible may grant pre-release access for the purpose of a publication where, in the opinion of the person responsible, the official statistic is relevant to the subject-matter of the publication and the inclusion of the official statistic in the publication will significantly improve the accuracy or usefulness of information contained in the publication.
- (2) Such pre-release access may only be granted if the publication is—
- (a) intended to be published at the same time as or shortly after the official statistic to which pre-release access is being granted under this paragraph is to be published; or
  - (b) the means by which the official statistic is to be published.
- (3) The person responsible may only grant such access to—
- (a) a Minister of the Crown;
  - (b) the head of a government department;
  - (c) a member of the Scottish Executive;
  - (d) a junior Scottish Minister;
  - (e) a member of the Welsh Assembly Government;
  - (f) a Northern Ireland Minister;
  - (g) a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the Northern Ireland Act 1998<sup>(34)</sup>;
  - (h) the National Statistician;
  - (i) an employee, servant or agent of a person or body which produces official statistics;
  - (j) the publisher of the publication; or
  - (k) an employee, servant or agent of the publisher of the publication.

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<sup>(34)</sup> 1998 c.47.

- (4) The number of persons to whom pre-release access is granted under this paragraph must be kept to the minimum necessary for achieving the purpose referred to at sub-paragraph 14.
- (5) The person responsible must not grant pre-release access under this paragraph unless in the opinion of the person responsible the public benefit likely to result from granting such access significantly outweighs the detriment to public trust in official statistics likely to result from granting such access.
- (6) Part 1, except for paragraphs 1, 2 and 6 to 10, does not apply to the granting of pre-release access under this paragraph.

## PART 3

### Interpretation

**15.** In this Schedule, “market sensitive official statistics” means official statistics which when disclosed would, in the opinion of the person responsible, be reasonably likely to have a significant effect on the value or traded volume of any investment.

# B

## CODE OF PRACTICE FOR WRITTEN CONSULTATIONS

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**B.1** The Cabinet Office has published a Code of Practice for Written Consultations, to guide departments' activities in this area. The Code of Practice includes six key criteria to be applied to all departmental consultations, which are set out below.

### CONSULTATION CRITERIA

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- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
- Be clear about what the proposals are, who may be affected, what questions are being asked, and the timescale for responses.
- Ensure the consultation document is clear, concise, and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the policy.
- Monitor the department's effectiveness at consultation, including through the use of a designated consultation coordinator.
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

**B.2** If you feel that this consultation does not fulfil these criteria, please contact:

Sowdamini Kadambari  
HM Treasury, 1 Horse Guards Road  
London, SW1A 2HQ  
Email: [sowdamini.kadambari@hm-treasury.x.gsi.gov.uk](mailto:sowdamini.kadambari@hm-treasury.x.gsi.gov.uk)  
Tel (+44) (0) 207 270 4867

### CONFIDENTIALITY DISCLOSURES

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**B.3** Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances.

**B.4** An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

**FREEDOM OF INFORMATION CONTACT**

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**B.5** Any Freedom of Information Act queries should be directed to:

The Correspondence & Enquiry Unit  
2/W1, HM Treasury, 1 Horse Guards Road  
London, SW1A 2HQ  
Email: [public.inquiries@hm-treasury.gsi.gov.uk](mailto:public.inquiries@hm-treasury.gsi.gov.uk)

## IMPACT OF REFORMS

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**C.1** The proposals in this consultation document have an impact only on those giving pre-release access to statistics and those receiving it. In virtually all cases these people will be working in, or for, the public sector (and are largely in central government). As such there is expected to be **no impact on the business or third sectors**.

**C.2** The Government's proposals may lead to the following burdens on those in the public sector:

1. the person responsible for official statistics (the National Statistician, Ministers or the person producing the statistics), or their delegate, will need to consider who is allowed to receive pre-release access, and under what conditions.
2. the person responsible must publish the reasons for which exceptional pre-release has been granted;
3. a person receiving pre-release access to market sensitive official statistics must sign a declaration setting out that they undertake to comply with certain rules for pre-release access; and
4. the person responsible must publish:
  - a list of all official statistics to which pre-release access has been granted;
  - prior to, or at the same time as, the publication of an official statistic, a list of the job titles of persons who have had pre-release access to that statistic; and
  - arrangements made so as to ensure compliance with the principles and rules.

**C.3** Although the Government is proposing to tighten the conditions under which pre-release can be provided, these are **comparable burdens** to those imposed by the current National Statistics Code of Practice Release Practices Protocol, which requires similar practices to be carried out.

**C.4** In addition, the proposal to limit pre-release to 24 hours may mean that occasional additional overtime payments need to be paid to staff involved in advising, or preparing to respond, ahead of release.

**C.5** The principles and rules for pre-release access to statistics will, as for the Code of Practice for Statistics, apply to official statistics, as well as being assessed for prospective and current National Statistics. As such, there may be a small amount of additional burden in applying the principles and rules to official statistics that are not National Statistics.

**C.6** These proposals have been screened for their impacts on competition, small firms, legal aid, sustainable development, carbon and other environment, health, race, disability, gender, human rights and rural proofing. No significant impacts have been identified in these areas.



# D

## LIST OF STAKEHOLDERS

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The following have been sent copies of this consultation document, as respondents to the previous consultation *Independence for Statistics*:

William A. Allen

The Association for Geographic Information

The Association of Regional Observatories

The Association of Registration and Celebratory Services

The Audit Commission

The Bank of England

Mary Berg

The Borough of Telford and Wrekin

The British Contract Furnishing Association

The British Society for Population Studies

British Urban and Regional Information Systems Association

John Bynner, Emeritus Professor of Social Sciences in Education

The Chartered Institute of Personnel and Development

Civitas

Len Cook

Data Management and Analysis Group, Greater London Authority

Sue Duncan, Chief Government Social Researcher

Statistics Department, International Monetary Fund

The Economic and Social Research Council

The European Central Bank

The FDA

Dr Ivan P. Fellegi, Chief Statistician of Canada

Fire and Rescue Statistics Users' Group

Jan Fischer, President, Czech Statistical Office

Harvey Goldstein, Professor of Social Statistics, University of Bristol

Nick Gulliford, National Association of Community Family Trusts

Professor Jonathan Haskel, Queen Mary University of London with Steve Machin, Professor of Economics, University College London, Henry Overman, Reader in Economics, LSE and John van Reenen, Professor of Economics, LSE

Heads of Profession for Statistics and Economics, the Health and Safety Executive

Health Solutions Wales

The Health Statistics Users' Group

Tim Holt

The Information Centre for Health and Social Care

The Information Commissioner

Informing Healthcare, NHS Wales

Ipsos MORI

John Knight

Henry Langley

Local Authorities represented on the Central and Local Government Information Partnership, Labour Market Statistics

Local Government Analysis and Research

The Market Research Society

The Market Research Society, Census and Geodemographics Group

Des McConaghy

Ian McLean

William McLennan Esq CBE, AM

Medical Research Council

The National Archives

The National Audit Office

The National Centre for Social Research

The National Institute of Statistics, Geography and Informatics, Mexico

The North East Regional Information Partnership

The Northwest Development Agency

The Nuffield Trust

ONS Departmental Trade Union Side

ONS Non-Executive Directors

Professor Sir Denis Pereira Gray OBE

The Proper Office for Registration Matters in Cambridgeshire

Prospect

The Royal Statistical Society

The Royal Statistical Society's Census Study Group  
Angela Ruotolo  
The Scottish National Party  
Professor A.F.M Smith, FRS  
The Social Research Association  
The Society of Business Economists  
The South West of England Regional Development Agency  
The South West Observatory  
The Statistics Commission  
The Statistics Partnership  
The Statistics User Forum  
Marcia Stephens  
Ray Thomas, Open University  
The Trade Unions Congress  
Dennis Trewin, Australian Statistician  
Tyne and Wear Research and Information  
Philip J Watson  
Bill Wells  
Justin Wickens  
John Wood  
P.J Wormald









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