

Regulatory Impact Assessment

Police and Justice Bill: Disclosure of Death Registration Information

1. TITLE OF PROPOSAL

1.1 The Registrars General's (RGs) for England and Wales, and Northern Ireland powers of disclosure of death registration information for use in the prevention, detection, investigation or prosecution of offences,

2. PURPOSE AND INTENDED EFFECT

2.1 Objective

The overall objective of the proposed amendment is to extend the powers of the RGs for England and Wales, and North Ireland to disclose death registration information to the police, sp police forces, the Serious Organised Crime Agency (SOCA) and other persons or bodies specifically for the purposes of the prevention, detection, investigation or prosecution of offences, which would include Impersonation of the Deceased (IOD) fraud.

2.2 Under the provisions of the Bill the RGS will be able to provide death registration information to the police, special police forces and SOCA for the stated purposes. There will also be a power for the RGs to provide the same information to other persons or bodies that can justify receiving the data for the purposes of prevention, detection, investigation or prosecution of offences.

2.3 The RGs will be able to vary the format, frequency and content of the death registration data supplied.

2.4 Clause 46 of the Local Electoral Administration and Registration Services (Scotland) Bill currently before the Scottish Parliament introduces similar powers for the RG for Scotland to provide information from the registers in his possession.

2.5 Background

2.6 The current regime for registering births, marriages and deaths in England and Wales came into force on 1 July 1837 and has remained essentially unchanged since. The law is largely now found in the Registration Service Act 1953 (RSA 1953), the Births and Deaths Registration Act 1953 (BDRA 1953), the Marriage Act 1949 and the Civil Partnership Act 2004,

2.7 Under s of the RSA 1953, England and Wales is divided into 324 registration districts each of which has a superintendent registrar. A registration district may comprise one or more sub and one or more registrars is appointed to each sub Superintendent registrars are also appointed with responsibility for marriages. TheRG sits above all.

2.8 The RG for England and Wales is a statutory office-holder (RSA 1953s.1). The people involved in the local provision of the registration service — registrars of births and deaths, registrars of marriages and superintendent registrars are also office-holders (RSA 1953 s The local authority is also involved in the practical supply and management of the service but not in the technical elements of registration set out in the Registration Acts listed at 2.6. This is the responsibility of registrars and superintendent registrars.

2.9 Under the current system in England and Wales, when a d occurs an informant, usually a relative of the deceased, provides information to the registrar of deaths within the area where the death occurred. The death is then registered

by entering prescribed particulars of the death in a bound paper register. A copy of the entry in the register (commonly referred to as "the death certificate") can be purchased by the informant at the time of registration or by anyone else thereafter, on payment of a prescribed fee.

2.10 Each registrar uses his own register book for registering deaths. While such a register is in use the public may search it (BDRA 1953 s.32).

2.11 Once a quarter the registrar is required to make copies of the deaths he has recorded, from the register, and pass them to the superintendent registrar for his area. The superintendent registrar, having satisfied himself as to the accuracy of the copies in due course sends the copies to the RG in Southport. The RG receives such copies from all superintendent registrars in England and Wales and thus the RG comes into possession of copies of the death entries relating to all deaths that have occurred in England and Wales soon after the end of the relevant quarter.

2.12 Once the RG is satisfied that she has received sufficient of the quarterly copies from the superintendent registrars, she prepares the indexes of the deaths required by s.30 of the BDRA 1953. The indexes are produced annually, arranged alphabetically and made available to the public at the Family Records Centre in Islington (part of the General Register Office) in bound paper volumes. Usually this will happen about 9 months after the end of the year they relate to.

2.13 In addition to the indexation of the deaths by the RG, the local superintendent registrar also prepares indexes of deaths that occurred within his area. Again there is a time delay between the death and that index information relating to it becoming available to the public (as in 2.12 for indexes produced by the Registrar General), though it is not as great as the delay that occurs in relation to the RG's indexes. There is no prescribed time for the length of the delay in production. It tends to vary on local practice.

2.14 The information contained in the index of deaths is not prescribed and intended only to assist a person in the identification of the record in which he/she is interested in order to obtain a copy of the full death entry in accordance with the statutory regime. From the publicly available indexes locally or centrally, anyone for £7.00 can obtain a copy of a death entry in full without having to give any explanation as to why they want it or what they are going to do with it.

2.15 In tandem with the paper system described above, registration staff at local authorities use a computer system called the Registration Service Software (RSS). The use of this system as an administrative tool was put in place without any statutory authority. It was not, and is not intended that the RSS should replace the bound paper registers. The paper record remains the official record.

2.16 The information on RSS is sent weekly (generally on d to the RG. This information is loaded on to another computer system (Model 204) and made available as a record of deaths that have been registered in the previous week. Therefore all deaths are available electronically to the RG as soon as they are loaded on to Model 204 (i.e. the week after they have been registered).

2.17 The procurement and development of a new computer system, known as Registration On Line (RON) will replace the RSS and registration functionality of M204. The RON system will enable registration staff to enter details of a death onto RON and through web connections details about the death will become instantly available to the RG.

2.18 In general, access to death registration data is through searching an index and then obtaining a certified copy of an entry (certificates) on payment of a statutory fee. However, there are a number of existing statutory gateways to enable the RG to provide death registration information in bulk to specific Government Departments, such as s.124A of the National Health Service Act 1977 (to the NHS) and s.125 of the Social Security Administration Act 1992 (to DWP).

2.19 The arrangements within Northern Ireland are broadly similar. The Registrar General for Northern Ireland is statutorily responsible for the system under which births, deaths, adoptions, marriages and civil partnerships are registered in Northern Ireland. Local authorities act as agents for the delivery of the registration service. Registrars are employees of the 26 local authorities but for registration purposes are under the instruction and act under the authority of the Registrar General.

2.20 Civil registration of births and deaths was first introduced to Ireland in 1864 and has not changed significantly since then. The current framework for the registration of births and deaths is set out in the Births and Deaths Registration (NI) Order 1976. Every death must be registered in the district in which the person died or in the district where the deceased was usually resident. Details of what information is to be registered and who is qualified to give information for the registration of a death are prescribed in The Registration (Births, Stillbirths & Deaths) Regulations (NI) 1973 and the 1976 Order (21(4)) respectively.

2.21 A new integrated IT system introduced last year contains computerised registration records from 1997 onwards as well as a computerised index of all records from 1864. Immediately a registration is recorded, details can be viewed in the General Register Office (GRO) thus eliminating any delays in the availability of the information. The computerised index is also immediately available for scrutiny in the public search room of the (GRO). The paper record of the registration remains the legal document and these are forwarded on a weekly basis to GRO for safekeeping. Certified copies of the records can be produced from the IT system.

2.22 The current system allows for the searching of indexes in GRO by any person and the subsequent purchase of a certified copy of an entry in a register on payment of a statutory fee. A copy can be obtained by any person making an application in person, by post, by telephone or Internet. The information contained in the index of deaths is not prescribed and is only intended to assist a person in the identification of the record they wish to purchase.

2.23 All the information contained in the death registration entry is thus in the public domain from the time the death is registered and remains so at all times thereafter.

2.24 Rationale for Government Intervention

2.25 The better use of death registration data to prevent, detect, investigate and prosecute offences, primarily for combating IOD fraud has been a policy aim of the Identity Fraud Steering Committee (IFSC), set up in early 2004 as part of the Home Office Identity Fraud Reduction Programme. In addition, it is understood that the scope of the Ministerial Committee on Data Sharing (MISC31) includes consideration of data-sharing arrangements with the private sector, where partnership working is required to deliver public sector outcomes, such as the prevention of offences.

2.26 The Home Office recently revised upwards the figures lost to Identity Fraud from £1.3bn to £1 per annum. This figure is not broken down further to specify the amount lost to IOD fraud. However, CIFAS, a not for profit membership association dedicated to the prevention of financial crime, who include most major financial organisations amongst their members, estimates that there were 70,000 instances of OD fraud in 2004 and the current rate of growth will see this reach 100,000 instances per annum by 2007.

2.27 One of the factors providing fraudsters with the opportunity to commit IOD fraud shortly after death is that it is relatively easy to obtain information about the recently deceased through obituaries. However the organisations against which fraud is committed are not aware in all instances that the death has occurred. The existing death data available to the police and other bodies is currently limited by its lack of completeness and timeliness. The provision of data from the RGs shortly after death would significantly reduce the fraudster's window of opportunity.

2.28 The RGs currently have the information within their possession but not the power to disclose it for these purposes.

3. CONSULTATION

3.1 In England and Wales in 1999, the consultation document "Registration: Modernising a Vital Service" was published. This was followed by the White Paper "Civil Registration: Vital Change" published in January 2002 which set out the Government's intention to allow public and private sector organisations greater access to registration data to help reduce the potential for fraud.

3.2 The legislative changes that were needed to implement such proposals were included in the draft Regulatory Reform (Registration of Births and Deaths) Order 200] presented to Parliament in July 2004. However, in December 2004, both the Delegated Powers and Regulatory Reform Committee in the House of Lords and the Regulatory Reform Committee in the House of Commons concluded that the extent of the proposals, rather than the proposals themselves, were an inappropriate use of the order-making powers of the Regulatory Reform Act 2001.

3.3 In Northern Ireland in 2003 the Registrar General published a consultation paper "Civil Registration in the 21st Century, Modernising a Vital Service" and a second consultation paper with the same title was published on 14.4.06. The documents included provision for the greater access to registration data to help reduce the potential for fraud.

3.4 Less formal consultation has occurred with members of the Identity Fraud Steering Committee, the Police and other law enforcement agencies, Government Departments and Private Sector organisations to discuss the proposals.

3.5 Consultation has also occurred with the IMPACT Programme, funded by the Home Office to deliver a new information sharing capability to the Police Service of England and Wales to close the gaps identified in Sir Michael Bichard's inquiry. The Programme is considering the benefits of including a range of sources of additional information, such as Death Registration Data, that police officers can cross-match against to identify people seeking to launder identities to get access to children, Utilising the IMPACT solutions as the means to share such information with the police is likely to be of significant benefit and support the wider harm reduction strategy.

4. OPTIONS

4.1 Option 1 Do nothing

Description

The RGs continue to provide access to death registration information through the existing statutory regime.

Key Concerns

- The level of IOD Fraud is forecast to rise beyond existing levels, Identity Fraud is believed to cost the economy £1.7bn per annum and in 2004 it was estimated that there were 70,000 instances of IOD fraud, forecast to rise to 100,000 instances by 2007.
- The human cost of distress to the relatives of the recently deceased will continue, as will the effort required to recover the situation when the fraud is discovered.
- The Police, Special Police Forces and SOCA resources devoted to maintaining records and investigating cases where they are unaware that the individual is deceased will continue.
- The cost to the police and other law enforcement agencies of investigating and prosecuting this type of crime will not be reduced,

Key Benefits

- No initial capital or administrative expenditure.
- No policy or legislation changes.

4.2 Option 2 Introduce provisions in the Police and Justice Bill for the RG for England and Wales and the RG for Northern Ireland to provide death registration information to the Police, Special Police Forces, SOCA and other persons or bodies for the prevention, detection, investigation and prosecution of offences.

Description

The RGs can provide death registration data in their possession to the Police, Special Police Forces, SOCA and other persons or bodies.

- File data can only be used for the prevention, detection, investigation and prosecution of offences,
- The RGs will recover the costs of providing the data.
- The receivers of the data will, be bound by an agreement between themselves and the RGs on the use of the data,

Key Concerns

- The data will be used inappropriately by the recipients.

Key Benefits

- Increased capability for the Public and Private sectors to reduce the instances of IOD Fraud.
- Increased capability for the Police to cross their information proactively to identify and thereby disrupt potential fraud and identity laundering, particularly in relation to people seeking access to children and other vulnerable groups.

- Reduction in costs and losses for the Public and Private sectors as a consequence of the reduced instances of this type of fraud,
- Reduced burden of costs for the Police, Special Police Forces and, SOCA to address this type of offence, which can be diverted to other areas.
- Reduction in the instances of distress suffered by the recently bereaved where their relatives identity has been hijacked.
- Successful delivery of a Transformation of Government initiative, providing powers for data to be used appropriately for the benefit of the Private Sector and citizens.
- On an assumption that Royal assent is obtained in November 2006, provision of the data could commence in Summer 2007.

4.3 Option 3 - The RG for England and Wales and the RG for Northern Ireland to provide death registration information to the PoJice, Special Police Forces, SOCA and other persons or bodies fot the prevention, detection, investigation and Prosecution of offences using administrative arrangements, without express powers.

Description

The RGs can provide death registration data in their possession to the Police, Special Police Forces, SOCA and other persons or bodies

The data can only be used for the prevention, detection, ir or prosecution of offences.

- The RG5 will recover the costs of providing the data.
- The receivers of the data will be bound by an agreement between themselves and the RGs on the use of the data.

Key Concerns

Legal opinion has been obtained for the RG for' England and Wales that the statutory frameworks in which she operates do not allow the administrative release of data for this purpose.

- The data will be used inappropriately by the recipients. Key Benefits
- Increased capability for the Public and Private sectors to reduce the instances of IOD Fraud.
- Increased capability for the Police to cross-match their information proactively to identify and thereby disrupt potential fraud and identity laundering, particularly in relation to people seeking access to children and other vulnerable groups.
- Reduction in costs and losses for the Public and Private sectors as a consequence of the reduced instances of this type of fraud,
- Reduced burden of costs for the Police, Special Police Forces and SOCA to address this type of offence, which can be diverted to other areas,
- Reduction in the instances of distress suffered by the recently bereaved where their relatives identity has been hijacked.
- Successful delivery of a Transformation of Government initiative, providing powers for data to be used appropriately for the benefit of the Private Sector and citizens,
- The provision of the data could commence in the first six months of 2007.

4.4 Option 4 The RG for England and Wales and the RG for Northern Ireland to provide death registration information to any organisation or person who wishes to have access to it, for any purpose.

Description

- The RGs can provide death registration data in their possession to any organisation or person who wishes to use it for any purpose.
- The RGs will recover the costs of providing the data.

Key Concerns

- This type of access arrangement, goes well beyond an proposals which the RGs have consulted on and is outside of the statutory framework in which the RGs operate.
- The lack of any restriction on the use of data could result in the data being used for reasons such as marketing services to the recently bereaved or providing an opportunity to commit IOD Fraud.

Key Benefits

- Increased capability for the Public and Private sectors to reduce the instances of IOD Fraud, The potential for data to be used for other beneficial uses such as medical research.
- Reduction in costs and losses for the Public and Private sectors as a consequence of the reduced instances of this type of fraud,
- Reduced burden of costs for the Police, Special Police Forces and SOCA to address this type of offence, which can be diverted to other areas -
- Reduction in the instances of distress suffered by the recently bereaved where their relatives identity has been hijacked.
- Successful delivery of a Transformation of Government initiative, providing powers for data to be used appropriately for the benefit of the Private Sector and citizens.
- The provision of the data could commence in the first six months of 2007.

5. COSTS AND BENEFITS

5.1 Sectors and Groups Affected

5.2 The Home Office Study on Identity Fraud, published in 2005 indicated that the figure lost annually to this type of Fraud is £1 A full copy of the findings can be found > <http://www.identity-theft.org.uk/> , The organisations and people affected are numerous, and were best illustrated in a Cabinet Office Study in 2002 [http://www. Identitycards.gov.uk/news-publications-fraud.asp](http://www.Identitycards.gov.uk/news-publications-fraud.asp) The sectors they include are:

- Individuals who have had the identities of their! deceased relatives hijacked.
 - The Police and other law enforcement agencies.
- Government Departments and Local Government,
- Financial Sector organisations, such as banks, lenders, credit card companies.
 - Retailers and other bodies who provide services to individuals committing IOD Fraud.

5.3 It is difficult to gauge who ultimately suffers the financial losses associated with this offence, ultimately it may not be the relative of the deceased, nor the individual retailer, however the overall cost to the economy will be reflected in the funding of Public Services and the price of products and services

5.4 Analysis of Costs and Benefits

5.5 The measures associated with the Home Office assessment on the losses to Identity Fraud cannot be used to assess a detailed financial impact for either Option 2, 3 or 4. Certain assumptions have to be made that the release and use of death registration data shortly after death will have a significant impact on these losses as the opportunity for an individual to commit this type of crime will be greatly reduced.

Option 1

Cost - No capital or admin costs.

Benefit - None.

Net effect - Increase in levels lost to Identity Fraud.

Option 2

Cost - £2.4m for capital, infrastructure, policy development and administration costs for the first three years of operation. The costs will be recovered from the recipients of the data.

Benefit - Reduction in the £1.7bn cost of Identity Fraud, commencing from 2007/8.

Net effect - Costs of data provision recovered from data users. Positive reduction in the cost of Identity Fraud,

Option 3

Cost - £2.4m for capital, infrastructure development and administration costs for first three years of operation. The costs will be recovered from the recipients of the data.

Benefit - Reduction in the £1.7bn cost of Identity Fraud, commencing from 2007/8.

Net effect - Costs of data provision recovered from data users. Positive reduction in the cost of Identity Fraud.

Option 4

Cost - £1.75m for capital, infrastructure, policy development and administration costs for first three years of operation. The costs will be recovered from the recipients of the data

Benefit - Reduction in the £1.7bn cost of Identity Fraud, commencing from 2007/8.

Net effect - Costs of data provision recovered from data users. Positive reduction in the cost of Identity Fraud, though reduced on Options 2 and 3 by providing opportunity to fraudsters. Possible increase in death data being used to actively market services to the bereaved.

5.6 Environmental and social impacts

There will be no overall environmental or rural impact of the proposed amendment to the Bill.

5.7 Race equality impact assessment

The proposed amendment will not impact on race equality.

6. SMALL FIRMS IMPACT TEST

6.1 As indicated in section 5 it is difficult to gauge the exact impact this type of offence has on small firms, though it is reasonable to assume that the general impact is a negative one. Therefore, the release of death registration data to reduce the level of offences committed should have a positive impact overall.

6.2 There are a number of companies that already pool death data which is currently available, from sources such as funeral homes, Royal Mail postal returns and published probate returns. They generally then sell the data commercially to organisations to use for varying purposes, amongst which will be to assist organisations in reducing the instances of IOD Fraud. However, the data they provide is limited by its timeliness and completeness.

6.3 It is possible there could be a negative effect on these companies, as some of their customers may wish to obtain death data from the RGs. However the impact should be mitigated by the data from the RGs only being provided for the purposes of prevention, detection, investigation

or prosecution of offences and that no company will be precluded from obtaining the data provided that it is to be used directly for these purposes.

7. COMPETITION ASSESSMENT

7.1 This proposal will impact on those sectors that are adversely affected by IOD fraud, or are current users of death data for the purposes of prevention, detection, investigation or prosecution of offences. This proposal is not introducing any new regulation into the market, the intention is to make the same death registration information available to all Public and Private sectors who can justifiably receive the data directly for the purposes of prevention, detection, investigations or prosecution of offences. As such, this should not introduce additional burdens which affect competition on existing or new businesses who wish to use the data for the stated purpose.

8. ENFORCEMENT, SANCTIONS AND MONITORING

8.1 Deceased data is not covered by provisions in the Data Protection Act, However it is essential that the release of data is controlled to ensure that it is used appropriately for the stated purpose of release. The administrative processes employed to control the use of the data will vary across the Public and Private sectors. However the compliance regime will have a number of characteristics:

- A standard application process.
- A decision making process for the RGs.
- An agreement signed by an appropriate representative for the RGs and the receiving organisation.
- A compliance regime to ensure the terms of the agreement are adhered to.
- The flexibility to be able to adapt any of the components to cater for differences between releasing data to different categories of organisation across the Public and Private sectors.

8.2 Sanctions

8.3 The main sanction that will be used should the data be used outside of the terms of the agreement is for future supply of the data to be suspended or ultimately to cease,

9. IMPLEMENTATION AND DELIVERY PLAN

9.1 In order to release the data for the stated purpose the RGs will need to undertake system development work, deploy appropriate resources and develop the required administrative tools and structures. It is anticipated that this work can commence shortly after Royal Assent is obtained. Should Royal Assent be obtained in November 2006, the

RGs should be in a position to commence release of the data in Summer 2007.

10. SUMMARY AND RECOMMENDATION

10.1 The relevant options with their costs and benefits are outlined in sections 4 and 5. The recommended option is Option 2. for a power to be provided in the Police and Justice BID for the RG for England and Wales and RG for Northern Ireland to provide death registration information to the Police, Special Police Forces, SOCA and other persons or bodies for the prevention, detection, investigation or prosecution of offences.

10.2 The other options have been discounted for the following critical reasons:

- Option 1 does not address the growing problem of this offence.
- Option 3 would result in the unlawful disclosure of information.
- Option 4 goes beyond the p6 objective and could lead to the data being used for alternate purpose.

11. DECLARATION AND PUBLICATION

I have read the Regulatory Impact Assessment and am satisfied that the benefits justify the costs.

Signed

Date

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