

DOING THE RIGHT THING

**Outlining the Department for Work and
Pensions' approach to ethical and legal
issues in social research**

**Department for Work and Pensions
Ethics Group**

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FOREWORD

When the Department for Work and Pensions was formed in 2001 it brought together about 75 researchers from the former Department of Social Security, the Employment Service and the Department for Education and Employment responsible for commissioning research worth around £10-12 million a year. Since 2001 we have been working together to bring together our research procedures and processes so that we have a consistent approach in commissioning and managing research. This work has covered contracts, publications and also ethics.

Until now there has been no documented ethical guidance for DWP Researchers to work to. As much of our research is amongst DWP's customers, many of whom might be thought of as vulnerable and many depend on the Department for benefits, it is important for us to be clear about our duty to undertake research sensitively, ethically and also legally both because of the growing data protection and human rights interests in research and because of the need for the Department to act lawfully in relation to its clients.

This Guidance has been designed for staff in DWP commissioning research. However, we are publishing it, in draft form, to seek the views of outside researchers, our contractors, groups representing our customers, and other interests. We are planning to hold two or three workshops later in the year to enable discussions of any issues arising from this Guidance.

The Guidance covers the legal background to conducting research, and also sets out standards of practice. We have aimed to work with existing Codes of Practice such as those issued by the Market Research Society and the Social Research Association. We do not wish to duplicate others' Guidance, nor do we wish to impose new forms of compliance where existing forms are effective. However, we do wish to ensure that the ethical standards we believe in are adhered to in the conduct of research on behalf of the Department. Once we have concluded this consultation, we will re-issue the

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Guidance updated in the light of comments received and seek to ensure compliance from our Research Contractors.

The Guidance also sets out the issues around Research Governance. Over the last two years there has been a growing debate as to whether the rigorous ethical procedures that apply to medical research, should also apply to social research. Where social research deals with medical issues we already do this. However, there are wider questions about whether formal external ethics committees are appropriate for non-medical social research. The Government's Chief Social Researcher, Sue Duncan, is currently undertaking a review of Government Social Research ethical practice and DWP Researchers are fully engaged with this review.

This Guidance is all the more important to DWP because amongst our customers are a number of different groups who might require a particularly sensitive approach. These include frail elderly people; people with learning disabilities; people with mental health problems; people whose first language is not English and people experiencing problems from drugs and alcohol misuse. Moreover DWP is responsible for the Disability Discrimination Act and we need to ensure that in our research the requirements and spirit of this Act are taken seriously and actively. The aim of this Guidance is to ensure that these issues are fully tackled when we set up projects amongst potentially vulnerable groups by the organisations conducting research on our behalf.

If you have any comments on the Guidance you can send them to me at the address below or email them to researchethics@DWP.gsi.gov.uk. Once we have received responses to this Guidance, we will invite interested parties to these workshops to enable them to set out their views. It would be most helpful if comments and suggestions could be sent in by September 19, 2003.

I look forward to hearing your responses.

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Doing the right thing

Outlining the Department for Work and Pensions' approach to ethical and legal issues in social research

1. Introduction

1.1 Background

This guide initially grew out of a joint workshop between researchers from the former Department for Social Security Analytical Services Division, Employment Service Research and Development Division and Department for Education and Employment Analytical Services to standardise procedures in the newly created Department for Work and Pensions (DWP). The subgroup on ethics realised it was difficult to separate out ethical issues from legal ones in relation to certain elements of research practice. This paper therefore covers legal as well as ethical issues for Government Social Researchers.

It was clear that while there was substantial agreement between all on what constituted good practice, there were differences in practice between (and to some extent within) the former organisations, which should not continue following the reorganisation of the Department.

Accordingly, it was agreed that there would be substantial benefit in bringing together a common view of good practice, building on work done in the past for manuals and guides. Ethical issues in social research are constantly changing and it is intended that this document will be regularly reviewed and updated.

1.2 Scope

The guide covers the principal legal and ethical issues involved in commissioning, managing and using social research, including some of the elements of research practice that have a bearing on this. It does not and cannot cover all possible issues that arise. Nor does it attempt to be a practitioners' manual for research, covering technical topics such as sample design.

1.3 Status

The publication of this document in DWP's Working Papers series is intended to allow further discussion within the analytical community. In case of any doubts however, the researcher is advised to refer to source documents; to seek specific legal advice; and, if necessary, to seek additional guidance on ethical issues from line managers and, ultimately, Heads of Profession.

If any addition or amendment is suggested, this should be brought to the attention of the authors, who will consider it for inclusion as appropriate.

1.4 What is research?

This framework is applicable to any form of primary data collection conducted by or on behalf of DWP, including the collection of information from people over the telephone, face-to-face or on paper; some aspects of the framework apply specifically when conducting secondary analysis of existing data. This document is also relevant to any research or consultation conducted with DWP members of staff as subjects.

1.5 Who are the researchers?

There are around 75 social researchers within DWP, based in Sheffield and London, headed by members of the Senior Civil Service in each location. Most of the Department's social research is commissioned to external research organisations and managed by the Department's social researchers.

There are therefore various levels of responsibility for ethical and legal issues involved in commissioning and conducting research and evaluation. For pure research, the DWP researcher, the contractor and the interviewer all have some responsibility and control over ethical issues. If a policy is being piloted, then the policy strategist, operational manager and, in some cases, the external service providers, also have a share in responsibility for ensuring that their investigation is ethical and therefore need to be fully aware of the issues involved with the pilot evaluation. The research officer responsible for the evaluation should ensure that this happens.

1.6 Realities of Government Research

The authors accept that in government social policy research and evaluation there will always be a balancing act required between meeting information needs and maintaining ethical standards. As government researchers we are required to obtain information on the practical application of policies and increasingly to work in an analytical way to inform policy development. While it is important to address ethical considerations, in some instances the need for timely research findings means that it may become unrealistic to deal with all of the ethical issues we raise in this document.

In order to ensure research is used effectively it needs to be timely in order for it to influence the policy making process, so while we may aim for a "perfect" research project this may not always be practical or indeed ethical in itself. For example it is ethically unsound to have a gold standard research project addressing all ethical issues that is not influential because it was not timely. As researchers we must address the costs and benefits of our approaches towards ethical issues.

2. Legal Issues

2.1 General

There are significant legal constraints on the commissioning and use of research. These are substantially different from ethical constraints - there are things which many would see as ethical which are in fact illegal, and things which while legal would generally be seen as unethical. We have put legal issues first in this document, as there is generally less ambiguity about them; and the implications for the Department could be much greater than for unethical ones.

A general point, which is absolutely crucial, is that in many instances it is not enough to check a single piece of legislation. Just because the Data Protection Act does not forbid something, for example, it cannot be assumed that there is nothing in, say, the Social Security Act that prevents it. In some cases, such as carrying out pilot programmes or sharing data between departments, it is not enough that there is no legislation that forbids it; it is necessary to identify legislation that actively authorises it.

2.2 Data Protection Act

The Data Protection Act of 1998 (DPA) is designed to ensure fairness in the collection and use of data. The DPA applies to data collected on **individuals**; data that is collected about companies and other organisations are **not** subject to data protection regulations. Despite its importance, its provisions are not as well known as they might be. An important difference from the previous Act is that the current legislation applies to any data, not just data held on computers. It is necessary under the DPA to state the purpose for collecting data, as far as it is known, at the time of collection.

Anyone processing personal data must comply with the eight enforceable principles of good practice. These state that data must be:

1. fairly and lawfully processed;
2. obtained for specified purposes;
3. adequate, relevant and not excessive for the specified purposes;
4. accurate;
5. not kept longer than necessary;
6. processed in accordance with the data subject's rights;
7. secure;
8. not transferred to countries without adequate protection.

There are, however, important provisions for research and statistics in the Act, which allow us to use data for purposes other than that for which it was originally collected. This means we can carry out secondary analysis as long as the data is not used:

- to “support measures or decisions with respect to particular individuals.” This would include not using research data for investigating benefit fraud, for example.
- “Processed in a way that substantial damage or substantial distress is likely to be caused to a data subject”

In addition:

- information used for research can be kept indefinitely
- personal data can be processed as long as it is kept secure
- the results of the research or any resulting statistics must not be made available in a form which identifies individuals.

We are also allowed to share data with external organisations if it is for research purposes only, if they are acting on our behalf or with the consent of the data subjects (i.e. individuals). A crucial point however is that, as alluded to above, it is often not enough to satisfy the DPA. This is particularly the case with administrative data, where it is necessary to identify legislation that allows the data to be used in the planned way. A summary of the provisions of the DPA can be found on www.dataprotection.gov.uk

Transferring Data Abroad¹

The eighth data protection principle stating that data should not be transferred to countries without adequate protection can become problematic when researchers wish to send data to the United States of America (USA). It is acceptable to transfer data to countries within the EU and other selected countries². The key problem is that within the DPA the USA is seen as not having adequate data protection laws to allow transfer of any data. The exemptions usually extended to research data do not extend to Principle 8 and therefore should not be transferred unless the organisation signs up to the Safe Harbour agreements. This was an agreement created to ensure that business and commerce did not suffer as a result of the new DPA regulations. However many research organisations in USA have charitable status and so are not able to sign up to the Safe Harbour agreements as it is regulated by Federal Trade Commission although you may be able to make other arrangements.

Current legal advice recommends that the most important step in adhering to this principle is to identify whether the research organisation or consultant in the USA are the data controller or the data processor. The DPA’s definition of a data controller clearly identifies DWP as having this role in most cases:

¹ This information is based on current advice at the time of writing. Researchers should ensure this is still appropriate.

² For a full list of the countries we are allowed to transfer data to see the Data Protection Act.

“a person who (either jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed”.

It is important to establish whether or not someone is a data controller because it is data controllers who are required to comply with the Data Protection Principles. This applies to both routinely collected administrative data and newly collected research data.

In order to comply with the data protection principles when transferring data to the USA it is good practice for researchers to do the following:

- Establish whether DWP are the Data Controllers;
- Establish exactly what the data will and will not be used for;
- Perform your own adequacy test. Do you know about the internal processes for storing and processing data in the US organisation? Do you think they are good enough? If not how could they be improved?
- Ensure there is specific reference to DPA issues in any contract
- Make sure the data is returned to DWP after it has been used.

Non compliance with the Data Protection Principles

The Data Protection Act it specifies that if the Information Commissioner (responsible for enforcing the DPA) is satisfied that any of the Data Protection principles have been contravened he may serve the Data Controller (DWP) with an enforcement notice to refrain from processing any more of the data and, where inaccurate data has been collected, specifying that it must be changed accordingly. Therefore it is necessary to ensure all data protection issues are resolved prior to collection or analysis of data.

2.3 Powers to run pilots

In general, specific legal provision is needed to authorise the Department to run pilots, usually in the form of regulations attached either to the Welfare Reform and Pensions Act (1999) or the Employment and Training Act (1973). This will generally be more contentious if participation in the pilot is to be mandatory. The responsibility for drafting regulations will invariably be with Business Design Directorate; but the evaluators will need to ensure that they are fully involved. For example, the regulations are likely to define the areas in which pilots will run and their duration. This will probably be done in such a way that if, for instance, volumes are lower than expected, it may not be possible to extend the duration of the pilot. Particular care will be needed if it is intended to use random assignment to create a control group among the eligible population, which would be excluded from the pilot provision, in order to ensure that this is properly covered in the regulations.

It is important for researchers to be sure that policy colleagues have checked the legality of any proposed pilot in advance of setting up the pilot and its evaluation. A good rule regarding pilots and evaluations would be “when in doubt seek legal advice”.

2.4 Welsh Language Act 1993

Under the main provisions of the DSS Headquarters Welsh Language Scheme it is necessary that³:

'provision is made for the Welsh Language when carrying out public surveys and research. We and our contractors will translate both opt-out letters and postal questionnaires into Welsh where Wales is included in the sample and will provide a Welsh-speaking service to answer queries from Welsh speakers and conduct telephone and face to face interviews in Welsh' [Paragraph 47]

What this means in practice is that, where Wales is included in a sample, the research officer must ensure that the contractor is aware that they must:

- issue letters to people inviting them to take part in a research study in both English and Welsh
- arrange for postal questionnaires to be made available in the Welsh language, on request
- provide a Welsh-speaking service to answer queries from Welsh speakers and to conduct telephone and face-to-face interviews in Welsh, where requested.

Where contractors have different arrangements for operating the Welsh Language Scheme, the Department's scheme will take precedence. A translation service is run via the Department's Public Enquiries Office.

Research conducted by the DWP on the European Social Fund (ESF) has made use of Welsh Translators who were provided by the research contractors. Note that it is only for Welsh that such a legal obligation exists. Issues about other languages are covered in Section 6 on Inclusiveness - but as an ethical rather than a legal consideration.

2.5 Disability Discrimination Act 1995

The Disability Discrimination Act (DDA) makes it unlawful to discriminate against disabled people by refusing them access to services or providing a lower standard of service. Part III also requires service providers to make reasonable adjustments to the way they provide their goods, facilities and services to make them accessible to disabled people.

For research it is the Research Officer's responsibility to ensure that contractors follow these steps:

- In organising any workshop, presentation or focus group, people who are invited are asked if they require special facilities, for example, signers and/or amplification.
- Buildings and rooms must be accessible for wheelchair users.

³ A new DWP 'umbrella' Welsh Language Scheme has been prepared and is currently being considered by the Welsh Language Board (WLB). Until this has been formally approved, the provisions of the DSS HQ Welsh Language Scheme remain in force.

- Use of small typefaces should be avoided. In printed material, 14-point type is preferable (e.g. copies of handouts); on screen presentations should be clearly legible.

For further information on disability issues and the DDA go to www.disability.gov.uk. This site contains a good overview of what the law currently states around disability issues.

2.6 Human Rights Act 2000

The Social Research Association's Ethical Guidelines suggest that the Human Rights Act could have a major impact on the relationship between researchers and those being researched. As the Act applies to action by "public authorities" it affects research being carried out on behalf of government departments. The Human Rights Unit are not yet clear about the full implications of the Act for social research and state: 'The Act does not specifically cover issues of research. Some of the Convention Rights may have indirect implications for research policy, but this depends on the individual case. Whether a particular research organisation might be regarded as a 'public authority' for the purposes of the Act would also depend very much on individual circumstances.'

Further information is provided in the Annex 2. For the most up-to-date information contact the Human Rights Unit, which is part of the Lord Chancellor's Department or see their website at www.lcd.gov.uk/hract/.

2.7 Sharing data with organisations outside DWP

The Department can share any legitimately held data with an outside organisation under contract to us for uses that would be legitimate for ourselves. The standard research contract that we use is carefully worded to allow this under the terms of the Social Security Act 1998 (See annex 1 for additional legislation on sharing of data). The remainder of this section considers other types of sharing.

This area is a potential minefield. The key starting point is to ensure that:

- information is used only for research and statistical purposes;
- it is held securely,
- shared data is restricted to that which is necessary for the research to be conducted.

Adhering to this will ensure that you are within the provisions of the DPA.

For administrative data, there needs to be specific legal provision to allow sharing. This was greatly simplified by the creation of DWP, whereby all data on benefits is available within the Department. In the event of a perceived need to share outside the Department, the most important piece of legislation is the Welfare Reform and Pensions Act (1998). This allows social security data to be shared between 'relevant authorities' for purposes related to employment and training. Section 72 of the Act includes a regulation to permit the sharing of Social Security, Child Support and War Pensions data, as well as the sharing of data between Jobcentre Plus (still the Benefits Agency and the Employment Service at the time of the Act) and local authorities for certain purposes such as sampling or secondary analysis. The Employment Act (2002) allows data sharing between DWP and Inland Revenue although at the moment there are information technology problems with doing this. However, there is an important distinction to bear in mind here. While it may be legally permissible for an organisation to share data with DWP, only in rare cases will it be obligatory.

2.8 Incentives

When to pay them

Payment of incentives to research respondents should be considered in return for participation. Incentives should not normally be paid for participation in standard cross-sectional surveys, primarily because of large sample sizes and the large cost involved. There is also a danger of creating an 'incentives culture' if payment is expected for participation in all research, although the authors are aware of the increasing difficulties in recruiting respondents.

However, incentives should certainly be considered where the research is particularly onerous, for example, a very long survey interview (beyond the average 45-60 minutes), for most qualitative research (face-to-face interviews, diary completion or group interviews where attendance is crucial and timing inflexible for the individual), or an ongoing commitment to a survey series (for example the Families and Children Survey).

Incentives should not normally be paid to respondents who are being interviewed in their professional capacity. Instead, they would need to be recruited through their employer and you should normally seek to gain the employer's permission to conduct the research during working hours. There may, however, be instances where it is appropriate to pay incentives to certain professional groups. Experience in conducting research with GPs, for example, has shown that it is extremely difficult to recruit this group without the payment of incentives in the region of £50-£70. The payment of incentives, therefore, needs to be considered on an individual project basis.

Where payment of incentives is being considered, it should be included as part of the research Invitation to Tender (ITT). Research specifications should invite tenderers to discuss incentives and make proposals; and tenderers should be asked to show incentive costs separately to the overall interview costs.

Advice from DWP Solicitors on the legal basis for paying incentives to benefit recipients without affecting benefit payments states that⁴:

- small one-off payments to benefit claimants can be paid because they should be treated as capital rather than income and they will only affect entitlement to benefit if it takes a claimant's capital above the allowed limit (£3000); but
- larger sums of money, for example £200+ for Citizen's Juries which take participants away for a weekend and a day, are different because they bring into question claimants' availability for work (this applies to claimants of Jobseeker's Allowance only and can be dealt with if the respondent agrees to cease participation in the research if a suitable job became available). In addition, legal advice is that this constitutes remunerative work, so it could affect all types of customers' benefit.
- Remunerative work would affect a customer's entitlement to benefit if they worked over 16 hours a week: if they worked 16 hours or less a week, it could affect the amount of benefit they receive if they earned more than their earnings disregard (the amount benefit customers are allowed to earn without the earnings being taken into account in the calculation of their benefit). In these cases, local Adjudication Officers should decide whether participation affects ability to work and whether participation in a given 'benefit week' affects their benefit.

Claimants should be made aware of the status of the payment in opt-out letters using the following terminology:

'If you do take part in the face-to-face discussion, you will receive £20 in cash, as a 'thank-you' gift for your help with this study. This will not affect your entitlements to benefit in any way.'

The amount to pay

Legal advice makes it clear that payments should be small and a one-off. DWP should pay the same amount of money to each of its respondents. Previous practice has varied from £10 to £20. We suggest that, where it is appropriate to pay respondents incentives, new contracts should pay £10 for a survey interview, £20 to participants for in-depth face-to-face interviews, £25 for focus groups and £50 for a day long 'workshop'.

⁴ This section describes our understanding of the situation at the time of writing. Current practice does, however, raise some issues for the Department and this guidance will need to be reviewed.

Type of payment

Respondents can be paid in cash or with a high street voucher⁵. The advantages of vouchers are that they may be more suitable for vulnerable groups, such as 'chaotic' drug users or alcohol misusers, and interviewers may feel more comfortable carrying them. It is also good practice when conducting research with children to use vouchers for incentive payments. The advantages of cash are that it does not compromise the Department's neutrality if particular organisations' vouchers are given and cash may be more useful to benefit recipients. Respondents should be paid after the interview and a record of the payment received kept by the interviewer. Researchers are expected to use their discretion to decide the most appropriate method of payment.

2.9 Use of Solicitors' Advice

If a researcher is ever in any doubt about a legal issue, he/she should refer it to the Department's Law and Special Policy Group. There is no team at the Office that has responsibility specifically for research issues, but the SOL A3 team has agreed to field queries from researchers.

⁵ High street vouchers can be redeemed at a range of high street shops.

3. Ethical Issues and Research Methodology

3.1 General and Codes of Conduct

There is no single definition of what is 'ethical'; and in any one view, there are subjective judgements. A guiding thought is not to do anything that makes you uncomfortable without very careful checking. Note that the converse is not the case: just because you are comfortable with what you are doing does not remove the necessity to ensure that it is ethical.

Virtually any research potentially places a burden on the respondent and this imposes on us an ethical responsibility only to collect data that is going to be of real use. Departmental research is used to inform decisions that potentially affect the lives of millions of people and there is a clear ethical duty to produce the best results we can. These two duties can sometimes conflict with other responsibilities for example balancing the need to give individuals opt out opportunities with the responsibility to maximise response rates. There is no easy way to say what this balance should be but we should always be aware of this tension.

There are a number of relevant professional codes of conduct, which make useful references:

Market Research Society

www.marketresearch.org.uk

This is the code that is most commonly adhered to by DWP research contractors and is more flexible than some of the other codes. Members of the Society who fail to comply with the code could face disciplinary procedures.

National Statistics Code of Practice

www.statistics.gov.uk

This code applies to statisticians within Government and comprises principles including relevance, integrity, quality and accessibility. It also includes a series of more detailed protocols on topics such as data collection, confidentiality etc.

Social Research Association

www.the-sra.org.uk/index2.htm

A comprehensive and recently updated document covering a wide variety of issues including obligations of funding organisations.

British Psychological Society

www.bps.org.uk

This limited guidance is mainly concerned with consent, deception and offering advice to participants.

These have different implications for individuals. Firstly, they are only binding on their members, although it can be helpful to know what others see as their ethical duty, as well as being sure of your own position. Some of the codes are stricter than others and breach of these would be potentially a disciplinary

matter (e.g. the National Statistics code) or result in being struck off the membership (e.g. the British Psychological Society). The Social Research Association's code is comprehensive, but it is for guidance only and therefore adherence to it is more a matter of personal conscience.

3.2 Use of Random Assignment

The use of Random Assignment (RA) of pilot participants to a 'control' group and an 'action' group as a means of assessing the net impact of a programme has been very controversial in recent years. There has been much pressure to make greater use of RA, particularly by drawing a contrast with the US where there is extensive use of experimental methods to assess the impact of pilots and demonstrations.

It is the authors' opinion that, *in the right circumstances*, RA is not only a perfectly legitimate technique, but also to be preferred as far superior to other non-experimental approaches. There is nothing about RA that makes it any different to any other form of pilot. It is simply a different way of allocating a service to a limited number of people. Most of the difficulties with RA arise as a result of process and implementation issues. At present there are several RA projects being conducted within DWP, which will help to identify the most effective forms of delivery.

Increased ethical concerns arise because programmes using RA as a methodology are more visible to participants than area-based pilots. Therefore people in similar circumstances living in the same area receive different services. This makes RA more likely to be challenged than area-based pilots, even though these allocate services on a non-random basis, such as postcode.

There are some significant constraints however. The theoretical superiority of RA (in terms of giving an unbiased estimate of net impact) rests on the key assumption that the outcomes of the control group are unaffected by the experiment. There are a number of circumstances in which this may not be the case, but a discussion of the pros and cons of RA as a research methodology is not appropriate here. The relevance in this document is that the ethics of RA are dependent on it being an appropriate research method in the circumstances in which it is being used.

Past experience shows that there are many practical difficulties in implementing RA, including cost. A poorly designed and implemented experiment is inherently unethical (as is any poorly designed social research), and it is important to consult early and often with experts in the practical implementation of RA.

There are also issues about the legality of RA with current legal advice being that there is nothing inherently illegal about the use of RA. A major concern is that it would be open to challenge under the European Convention of Human Rights (ECHR) because it is 'depriving' one group (or groups) of people of something. Solicitors' advice is that such a challenge would be unlikely to succeed, but with no precedents, this cannot be guaranteed (there is also the consideration that even an unsuccessful challenge could be deeply damaging to the project in question, and potentially to the Department as a whole). This

emphasises the need for careful design and implementation to minimise the likelihood of such a challenge being made.

A separate consideration is that the use of RA needs to be explicit in the design of any pilot. Where it is necessary to lay regulations to authorise the pilot (as is the case for example for mandatory pilots for JSA claimants), it is **essential** that these make clear the RA element.

For a comprehensive review of Random Assignment including a practical framework for implementing this methodology go to <http://www.dwp.gov.uk/asd/asd5/IH94.pdf> or find the report by accessing the search facility on the intranet searching for random assignment.

The key conditions, which make RA ethical, are generally held to be where:

- There is genuine uncertainty about whether the new programme has a net benefit or not – this is what the RA is designed to accurately test
- The experiment involves giving some people but not others access to new services; therefore nobody loses entitlement to anything they had a right to before
- Where participants take part voluntarily in an experiment, they should give their informed consent before being registered for the random assignment process and enter onto the programme
- They need to be clear that they are applying for admission to an experimental programme, and have only a 50:50 (usually) chance of being accepted
- The most important factors to consider are informed consent and a transparent random process both of which are paramount to ensuring it's ethical.

3.3 Obligations to research participants

All research with participants carries with it certain responsibilities and obligations for the researcher. The researcher is responsible for ensuring that the **physical, social and psychological well being** of research participants is not adversely affected by the research. This is irrespective of whether the participants are individuals, households, social groups or organisations. For a fuller discussion of the responsibilities of the researcher see the Social Research Association (SRA) Ethical Guidelines.

It is important to remember that social research is intrusive and undue intrusion should be avoided and the privacy of respondents respected. We should also consider carefully the possibility that the research experience may be a disturbing one, particularly for those from vulnerable groups, who may find the research experience upsetting or traumatic. For example some people may find talking about a particular illness or the loss of a job difficult.

The Department has a shared responsibility with the contractor to make sure that distress is minimised. One possibility to address this is to arrange with the contractor for interviewers to carry leaflets with helpline numbers that they can hand to respondents or Q&A sheets that include contact details for policy and research staff within the Department. These could include for example local mental health counselling organisations or other specific support organisations relevant to particular customer groups. It may also be appropriate to cover this issue in the interviewer training/briefing; including highlighting to interviewers that it is not their role to counsel respondents themselves or to offer advice regarding the benefits system or employment matters. For some research designs, for example when comparing outcomes between a control and pilot group, offering specific employment-related information would need to be carefully considered in case of influencing outcomes.

The need to address these issues depends on the population under study as well as the nature of the questions that will be asked. There is also a responsibility not to waste people's time and care should be taken with research design to avoid this.

Interviewer training

For some projects, for example where the contractor is using a field force of interviewers, it may be necessary for the interviewer briefing to cover issues such as the importance of ensuring that consent to participate is an informed choice and/or dealing sensitively with vulnerable groups. This should be included as part of the interviewer briefing for any project, but its focus and the time devoted to it may vary according to the specific issues of the customers who will be invited to take part in the study. Research managers should ensure that interviewers are briefed appropriately. It may be necessary, for example, to consider whether interviewers need specific training for working with a particular group of customers. For instance, have the interviewers had adequate disability and/or cultural awareness training?

3.4 Informed consent

Participation in departmental research should be based on informed consent, which should be freely given. Participants should never feel obliged or compelled to take part in research. Therefore, it is important when asking benefit claimants to participate in DWP research to make it clear that refusal to take part will not affect current or future entitlement to benefits. In addition, participants should be made aware that they are free to withdraw from the research at any time, and to request that their own data be destroyed.

It is important to gain informed consent so that research participants are clear what they have agreed to, the limits of their participation and any potential risks. The amount of information that will be needed to ensure that someone is adequately informed will vary between different research projects. It is inappropriate to overwhelm potential participants with unnecessary information but it is also unethical to withhold information that would be likely to affect an individual's willingness to participate. It is equally important that the information is given in a clear, easy to understand way, plain English should be used and the use of jargon avoided.

The usual way of sharing information with potential participants to enable them to make an informed choice about taking part in a research study is in writing initially, followed by a telephone or doorstep call. It is important to take into account the potential needs of people who may have difficulties accessing information communicated by these methods. These include: people who have visual or hearing impairments, people who have literacy problems such as dyslexia, and people whose first language is not English. Some of the steps that can be taken are covered in Section 3.9.

In addition, there are other groups where gaining informed consent is problematic. These are groups where research participants are particularly vulnerable due to factors such as age, disability, physical or mental ill-health. Where there are particular difficulties gaining fully informed consent, it may be necessary to use a proxy, such as a carer, instead. (Further information on this is provided in Section 3.9). In these cases care will need to be taken not to intrude on the personal space of the person to whom the data refer, or disturb the relationship between the person and the proxy.

Appointees

Where a person is unable to act, the Court of Protection may have appointed a receiver to act for them, or the Department may have appointed someone to act on that person's behalf. It is important that the right person gets the chance to consent or refuse to take part and that that person is able to make an informed decision. In many cases, DWP records will show that the customer has a legally appointed representative or an appointee, because this will be the person who corresponds with the Department for the administration of the customer's benefit. In these cases, we recommend that at the recruitment stage two letters should be sent to the appointee, one of which should be addressed to the customer. The letter for the appointee should explain the importance of the customer having the chance to make an informed decision about whether to participate, and should ask the appointee to ensure that the customer receives their copy of the letter. The aim is to try

to ensure that it is the customer who decides whether they want to participate in research, but to minimise the risk of distressing them. These types of decisions will depend on the nature of the research and therefore will be more important if there is large proportion of customers with appointees in the population.

In addition, it should be made clear to interviewers in their training that they should not proceed with an interview if they feel that the person has not given informed consent to participate. In some cases, it may be appropriate to arrange for proxy interviews or to carry out specifically designed interviews with appointees. This is likely to depend on the aims/topic of the research as well as the proportion of people with appointees in the population under study. In these cases care will need to be taken not to intrude on the personal space of the person to whom the data refer, or disturb the relationship between the person and the proxy.

Decisions on all of these issues will depend on factors such as the scale of the project and the numbers of people in the sample who may have these requirements.

3.5 Anonymity, Confidentiality and Database Development Unit procedures

Sampling

DWP administrative data is often used for sampling for surveys and qualitative studies and usually it is the research contractor who carries out the sampling. When supplying data for purposive sampling for qualitative research or for stratifying sampling frames for random sampling for quantitative research, the data must be limited to what is strictly relevant for the sampling. Depending on the study, this could include data such as benefit claim history, other benefits claimed etc.

Anonymising datasets

Research participants should be assured that all responses are given in confidence and that their data will be anonymised. It is DWP's responsibility to ensure that information that could identify respondents is not released to a third party unless otherwise specified when the respondent is giving consent⁶.

Researchers should take steps to protect the anonymity of research participants. All personal information must be treated as confidential and any data that is archived must be anonymised. Anonymised data means that a user would not be able to identify someone without unreasonable effort. You can anonymise a dataset by:

- removing all potentially identifying information, including outliers

⁶ A 'third party' here would not include any research contractor who we employ to collect or analyse data on behalf of the Department. Since DWP are the Data Controllers, it is also legitimate to pass unanonymised data to a different contractor to continue survey work. This, therefore, allows us to address inadequate performance by changing contractors, for example to conduct follow-ups.

- considering carefully what combinations of data you store, for example, combinations of variables such as local authority, disability and ethnicity would make some people in Island communities identifiable
- not reporting which areas were used when reporting results.

For qualitative data, the transcripts should be available to the Department, but only after they have been fully anonymised by the research contractor.

Linking survey and administrative data

Datasets should normally be anonymised by the contractor before being sent to the Department. However, for some surveys, for example those that are part of a large-scale evaluation such as the ONE pilots, there may be a strong business case for combining administrative data with the survey data for information on, for example, job outcomes. The issue of linking survey and administrative data is a growing one. It involves adding administrative data to the survey dataset in order to allow further tracking of respondents either through administrative data or further follow-up surveys.

From an ethical point of view, there is an important distinction to be made between adding relevant variables from the administrative data to a survey dataset, which is reasonable, and adding a survey dataset to the administrative records held by the Department, which is not reasonable. The latter would mean that the responses the individual had given in the survey would effectively become part of the administrative record held by the Department on that person.

Linking survey and administrative data requires receiving unanonymised survey data from the contractor. Allowance for this needs to be made right at the beginning of the project. The following steps need to be taken:

- the business case needs to be made to and agreed by the Head of the Database Development Unit in the Information Centre (see Appendix 3 for contact details)
- the contractor needs to be aware from the beginning that they will be required to supply an unanonymised dataset and the standard contract needs to be amended accordingly
- the respondent needs to give informed consent for their personal details to be shared with the research team at the Department and merged with administrative data (see ONE case study below)
- once the data has been gathered, it must only be used for research purposes
- data and identifiers must be stored separately.

Another case for receiving non-anonymised datasets from contractors is where a longitudinal study (for example the Families and Children Study) needs to be retendered.

Current solicitors' advice is that is not a legal requirement to obtain the respondent's consent for linking administrative data with their survey data. But it is good practice to do so. Many of our contractors use standard wording in their opt-out letters that assures respondents that their personal details will

not be passed to anyone outside their own organisation. If data linking is intended, then it is important that this does not contradict any information that the respondent has been given, for example in the opt-out letter or verbally by an interviewer. We suggest that consent for linking data is then requested at the end of the survey interview (see ONE case study below for an example).

Case study: the ONE Destinations Survey

If it is intended that the contractor will share non-anonymised data with the Department, then opt-out letters need to be carefully worded. The following was used for the ONE Destinations Survey:

‘Everything you tell the interviewer will be in strict confidence. The findings will **not** identify the names or personal details of those who take part, and these details will not be passed to anyone outside [the research contractor] and the research team at DWP.’

A similar approach has been adopted by the Office of the Deputy Prime Minister (ODPM) for the English House Condition Survey.

At the end of the ONE survey interview, respondents were asked the following question:

‘Would it be okay if the answers you have given to this survey were combined with administrative records held by the Department for Work and Pensions (DWP)? Your answers will of course be treated in strict confidence by [the research contractors] and the research team at DWP and will not affect your dealings, either now or in the future, with DWP.’

Then, if necessary: ‘In order to know more about what happens to different groups of people who leave benefit, the DWP would like to combine your answers with DWP records which contain information such as when people have moved on and off benefit. This will help the DWP to see how people get on in the future. Your answers would be used for statistical purposes only. No information that would identify you will be used.’

Of the 220 pilot cases, all gave their consent for their data to be merged.

Data storage

The DWP Information and Analysis Directorate Information Centre (IAD IC) has recently drawn up a framework for the IAD policy on Data Protection, access to IT systems and associated training. The aim of the framework is to make the users and suppliers of data aware of their rights and responsibilities with respect to the Data Protection Act and to ensure that auditable trails of who has accessed the more sensitive pieces of information are kept. A programme of training for DWP analytical staff is due to be instituted.

At present, most social research data is not stored on the repository, although the FACs team are piloting this approach and it may become a bigger issue in the future. There is currently no Department-wide guidance on the storage of social research data. The development of such guidance is recommended and would involve consultation with social researchers across DWP.

The repository supports two main types of data storage:

- Anonymised survey data is set up with full access to all features of SAS. Users of this data must have had basic Data Protection Act training in order to conduct analyses using this data.
- Longitudinal data, by its nature, cannot be stored anonymously. Explicit informed consent needs to be obtained from respondents before data can be linked to administrative data (eg NDLP evaluation survey). Users will have full access to the data but will not have the ability to merge the datasets themselves. All database linking will be carried out by the Database Development Unit to ensure that the legal gateways have been fully considered. Users will be given additional training on the use of these datasets and will only be given access after having been made fully aware of the issues through additional documentation. All external access (including OGDs) to longitudinal datasets held on the repository must be approved by the Head of the Database Development Unit.

Secondary analysis

Contractors are covered by the same responsibilities as the Department in terms of Data Protection and IT Security. This, in practice, should mean that they have the same access as staff within the Department, provided that the contractor appropriately specifies provisions for Data Protection and IT Security. We also have Service Level Agreements with people from Other Government Departments to allow access to data, as it is not possible to have contracts between government departments.

Fraud

Administrative data is sometimes used in the investigation of benefit fraud. In ethical as well as legal terms, this is a legitimate use of administrative data, because it is one of the purposes for which the data is collected. The same is not true of evaluation databases or other research data. These data are given by participants in good faith for the purposes of evaluation and research, and therefore, both ethically and legally, should not be used for the investigation of fraud.

3.6 Third Party Involvement

In some of the research work that we do, it is necessary to obtain information from external organisations. External organisations are those with which the Department has no contractual relationship.

The most common situation in which we would need to access data collected by an external organisation would be in order to construct a sampling frame. Some external organisations may be reluctant to pass information to either the Department or to a research organisation because of data protection regulations. If this is the case, the first thing to do is to speak to the organisation and find out exactly what their concerns are. Check that it is a data protection issue. For example, the Data Protection Act applies only to data collected on **individuals**. Data that is collected about companies and other organisations are **not** subject to the DPA (although they may well be

covered by other legislation or they may be commercially sensitive and companies may be unwilling to provide them). From an ethical point of view, it is, of course, still important to reassure such organisations that any data passed over will be kept confidential and will only be used for research purposes.

If the data you need to collect is individual data, then this will be subject to data protection. The easiest way of dealing with this is to anticipate it early on and to warn organisations that they will be required to provide information for research purposes. This is the approach taken, for example, by the European Social Fund Evaluation Team. ESF funding is available to a wide range of training providers (e.g. voluntary sector, HE, FE, LSC, Government Departments). As there is no central database of individuals who have received support on projects funded by ESF, the ESF Evaluation Team need to get details on individuals directly from the training providers. Providers are asked to supply the names and contact details of all the people they have supported in a given reference period.

Projects are informed that this is a requirement at the point at which their funding is approved **and they are told to register under the Data Protection Act to allow for disclosure to the Department and to an independent research organisation**. The information that we ask them to supply is non-sensitive information. In asking external organisations for information, it is important to only ask for the minimum information that you need and to be willing to accept it in whatever format is easier for them. Minimising the burden placed on the external organisations is important as you are relying on their co-operation. It is also important to reassure organisations that the data they provide will only be used for research purposes and will be treated confidentially.

Local Authorities act as the agents of DWP for the administration of Housing and Council Tax Benefit. In theory, the data they collect that may be used for sampling purposes, is the Department's data, which the Department and its contractors may call on. However, in practice, since there are no standard IT systems on which the data is held, LAs vary in their ability and willingness to supply DWP or its contractors with data. An alternative way of obtaining data on Housing Benefit and Council Tax Benefit is being developed via the Information Centre, but this is still at least a year away from being fully operational. It is important to remember that if we have obtained data from an organisation for a particular purpose, we cannot assume that we can use it for other purposes as well.

If you are approaching organisations that do not receive funding from the Department, the key thing is to allow plenty of time to sort out potential problems. It will be the responsibility of that organisation to check that sharing their data would be legal and they might choose to refuse for that reason. One way of persuading them might be to show them how they and/or their customers might benefit from the research, as well as arranging for the research to be conducted in such a way that the research contractors never come into contact with confidential data. If organisations still refuse to hand over data about individuals, you may need to think of alternative ways of carrying out the research. One example of this would be asking an organisation to administer the survey on your behalf. Organisations dealing

with disadvantaged groups such as ex-offenders or drug misusers may feel it is a breach of confidentiality to pass on any details of their customers. However, they may be willing to hand out questionnaires to them. This is not an ideal solution as it makes it very difficult to control the sampling process and there is no guarantee that the questionnaires will be handed out. However, it is a better alternative than not carrying out the research at all and should be considered if it is the only option.

Another example of accessing data from third parties is the work the Department carried out to look at refugees' experiences of and barriers to accessing work and training. This included a survey of 400 refugees, from five different ethnic groups and in five different areas of England. There was no administrative data available that could usefully be used as a sampling frame for the research, so the researchers had to design an alternative sampling strategy. The first stage was to create an extensive list of community based and voluntary organisations that had day-to-day contact with refugees in the five fieldwork areas. This needed to be as exhaustive as possible and took several weeks to research and build up. The researchers then wrote to all of the organisations asking them to complete a short questionnaire and whether they would be prepared to help the researchers to recruit respondents for the survey. The questionnaire included questions relating to how many refugees the organisation was in contact with and what the nature of the contact was. The researchers used this to select a range of different types of organisation, to try to maximise the diversity of refugees that they could access through them. The organisations were then responsible for making the initial approach to potential respondents and putting interviewers in touch with them.

This method introduces bias in the sample and may exclude certain groups from the research at two levels:

- Some groups of people may be more or less likely to be in touch with organisations
- The organisations may select some people over others.

If any factors such as these are likely to bias or have a bearing on participation then it is important to make this clear in reporting the research.

Often, as in this case, the organisations may be reliant on statutory or voluntary funding. They may well be on tight budgets and asking them to help with sampling and/or recruiting will constitute an additional drain on their resources. In such cases it is worthwhile investing time in visiting organisations to help them to understand the value of the research for themselves and/or their customers.

3.7 Follow-up research

In some cases it is necessary to include a follow-up stage of research, where the sample of respondents is contacted again some months or years later. Informed consent must be obtained for all parts of the research: there are differing points of view about when this should be obtained. It is necessary to achieve a balance between gaining the optimum response rate and ensuring that respondents have information about what the study will involve. In this

instance it is useful to refer to the experience of established longitudinal studies to see how informed consent has been gained.

The Department for Education and Skills' Youth Cohort Study (a postal survey which follows up a cohort of 16 year olds at 17, 18 and 19) has tried the option of adding a question asking for permission to re-contact. This produced a considerable number of negative responses and therefore, decreased the number of potential respondents for the second stage. To reach a compromise between ensuring informed consent and getting a reasonable response rate the YCS now includes a clearer notification in the initial covering letter that this is part of a panel survey without asking for permission to re-contact at each stage. Since different sweeps of the survey may be carried out by different research organisations (there is a requirement to re-tender the project for each sweep) the initial letter also makes it clear that although details will not be used for purposes other than the YCS the details may be used for further sweeps of the study.

Follow-ups are not always anticipated when a research study is initially conducted, but may be the most efficient and appropriate way of addressing a research question at a later stage. If this is the case, a second opt-out phase needs to be conducted in order to give respondents the opportunity to decline to take part before being approached by a researcher. Although there is no legal obligation to use the same contractor to conduct the research, this is preferable from an ethical point of view, particularly for qualitative research, because at some point non-anonymised data from the previous round of fieldwork will need to be merged (quantitative data) or reviewed (qualitative data) by a different researcher.

3.8 Access to Information

Social research is conducted for the benefit of customers and the public in general. There should be free access to information both on the research being conducted and on the findings of the research, once these have been subjected to appropriate scientific review. This information must be presented in a format understandable to the public. Reports need to be comprehensible and take language and other needs into account. In addition, it is important that those pursuing social research open their work to critical review through accepted scientific and professional channels. This means that, once established, findings must be made available to those participating in the research and to all those who could benefit from them, through publication and/or other appropriate means. Most of the Department's research reports are currently published on the internet and it is intended that by 2005 all our reports will be publicly available on the internet.

3.9 Making Research Inclusive

There is a difference between sampling from a hard to reach population that is the specific subject of a study and ensuring that all members of a population or sample have equal opportunity to participate in research. The former requires formulating a strategy for sampling a specific hard to reach population and is a methodological issue. The latter, on the other hand, is an ethical as well as a methodological issue and it requires taking steps to ensure that potential barriers that may prevent some members of a population

or sample from participating can be overcome. It affects all of the research that we carry out with DWP customers.

Including potentially excluded groups is important because, on ethical grounds, as many people as possible should be given the opportunity to exercise their right to voice their views. Being more inclusive also increases the validity of the data, because it reduces sampling bias and means that data emanating from groups who may have a common view or experience are not excluded.

Barriers to participation in research

There are a number of barriers that may make it difficult, or impossible, for certain groups of people to participate in research such as:

- Communication barriers
- Cultural barriers
- Financial barriers
- Geographical barriers

Who might be excluded?

Due to the barriers described above, the following groups may be excluded from DWP research (this is not an exhaustive list and is in no particular order):

- People with mental health problems
- People who have a speech impairment
- People who are deaf
- People who have difficulty reading, for example because they have a visual impairment, have a learning disability, have literacy problems (including dyslexia) or use British Sign Language as their first language
- People who have dexterity problems
- People whose first language is not English
- Women from some ethnic communities
- People living in socially excluded communities e.g. areas where interviewers are unwilling to travel
- People believed to pose a possible threat to interviewer safety
- People with drug and alcohol problems
- People without a permanent residential address
- People without a telephone

How might people be excluded?

Different groups might be excluded at different stages of the research process:

- The sampling frame – eg people without a permanent residential address; people whose telephone numbers are missing from administrative databases
- Recruitment – eg people who may be unable to read or understand the opt-out letter or to communicate with the recruiter when they phone or call in person

- Data collection – different methodologies may tend to exclude different groups of people. These are explored further in the following section.

Data collection

- **Postal surveys** - A postal survey is likely to exclude: people with reading difficulties (e.g. dyslexia); people with learning difficulties; people with carers who act as gatekeepers; people with visual impairments; people whose first language is not English (note: this includes people whose first language is British Sign Language); people who have dexterity problems; and possibly others.
- **Telephone surveys** – A telephone survey is likely to exclude: people with speech impairments; people with hearing problems; people who do not own a telephone (a small minority of the population but the proportion without a telephone increases with age); people whose first language is not English and possibly others.
- **Face to face surveys/depth interviews/focus groups** – Unless provision is made, this type of research will potentially exclude: people with speech impairments; people with hearing problems; people whose first language is not English (including those whose first language is BSL); potentially women from some ethnic communities; and possibly others. There are other groups for whom small steps will need to be taken, such as reading showcards aloud for people with visual impairments, which may lengthen the interview.

When designing research using these methods it is important to consider which groups may be potentially excluded and at what point during the research process. It is then possible to work out strategies for maximising inclusiveness.

Maximising Inclusiveness

Much of our sampling is carried out using benefit records. The people most likely to be missing from these are those without a permanent address. But these people usually have some form of contact address or telephone number that is used for the administration of their benefit. It is important that the contractors put aside resources for the additional time that may be required in ensuring that these people are given the opportunity to participate in the research.

When using other sampling frames it is important to consider who might be excluded and whether strategies should be put in place for making contact with these people eg through voluntary or community organisations that they may be in contact with. This may cause difficulties if you are trying to achieve a random sample for a survey and the implications for the data should be carefully considered.

Recruitment: opt-out letters

All opt-out letters should be written in plain English that will be easy to understand for people who may have difficulties with literacy or written English.

The Royal National Institute for the Blind recommends 'a clear print standard' of 12 point type for a general audience and a minimum of 14 point for readers with a visual impairment. Ariel and Univers are the clearest fonts. Text should be printed in black on a white or light coloured background to provide the best contrast.

Researchers should consider whether all letters being sent out for a project should be printed in font size 14 and/or languages other than English. It is important that opt-out letters are not too long and it is sensible to stick to one side of A4 letter-headed paper. An alternative is to include a telephone number in large print that people can call if they want to receive a translated/large print/Braille version of the letter. The risk here, of course, is that this will not cater for every individual's needs.

Data collection: translating material

The researchers may want to consider the merits of having written material translated into other languages including minority languages, Braille or provided on audiocassettes. Whether this is done in advance or on request will largely depend on the nature of the population under study. In terms of the foreign languages that may need to be covered, DWP leaflets are provided in: Bengali, Arabic, Welsh, Cantonese, Gujarati, Punjabi, Somali, Urdu and Vietnamese.

If research instruments are to be translated, it may not be sufficient for a document simply to be translated word-for-word into another language. Literal translation may result in the meanings of questions being inadvertently changed and/or cultural references being translated inappropriately. These issues can be particularly problematic for a quantitative survey, where it is important that meaning is standardised for all respondents.

Another issue is that, unless the researcher is familiar with the language(s) in question, he/she loses an element of control over the research instrument when it is translated. In some languages there may be a great deal of difference between the everyday spoken language that would be appropriate for our research and the 'classical' language that may be taught to learners in the UK and who may be employed by translation companies. Some groups among the population under study might not understand the classical version of the language, so it is important that translation companies are of a high standard and understand what is required.

One way of tackling these issues is to use the method of 'double' or 'back' translation. This involves one bi-lingual person translating the questionnaire into the target language and another re-translating this version back into English without reference to the original, as in the example in the box below. It is also very important that the translated research instrument is piloted properly.

CASE STUDY

Refugees' Opportunities and Barriers in Employment and Training

This DWP research project involved a survey of 400 refugees, carried out via face-to-face interviews in five languages. The survey involved interviews with people from the following five communities: Tamils from Sri Lanka, Kosovans, Somalis, Turks, Iraqis. The questionnaire was translated into the five different languages using the method of double translation. Two interviewers from each of the communities were recruited to carry out the fieldwork. One interviewer translated the questionnaire into the target language. The other translated it back into English, without looking at the original. Then the researchers held meetings with each pair of interviewers to discuss differences in the translations and to agree on the wording of the translated questionnaires so that changes in meaning were avoided.

Data collection: using interpreters

Another way of conducting research with speakers of languages other than English is through interpreters. This is more appropriate for qualitative research, where the discussion is guided by the researcher but participants need to be encouraged to speak freely.

Communication through a third party, however, can hamper free discussion and the collection of good data relies on the interpreter translating everything that the participant says. An alternative method is to recruit bi-lingual researchers for a particular project. The difficulty with this approach is that it can be difficult to recruit people who are fluent in a particular language and also have the appropriate research skills. This can be addressed by providing some training for the researchers/interviewers, but this can necessarily only be fairly rudimentary and would be very expensive to do on an ad-hoc basis as and when speakers of a particular language are required. This approach, then, is probably most practical for research that is targeted at speakers of other languages rather than for maximising inclusiveness in a more general sense, although it may be useful for group work when the required languages can be discovered beforehand.

There is considerable debate around whether there should also be ethnic matching of interviewer and respondent but there appear to be no clear cut conclusions. One argument is that it is better to design and test questions that elicit responses that are not affected by the ethnicity of the interviewer⁷.

⁷ For further details of this issue see *Qualitative Methods for Investigating Ethnic Inequalities: Lessons from a study of Quality of Life among Older People* by James Nazroo and Ini Grewall, *GO Newsletter*, Spring 2002.

Data collection: people with disabilities

It is estimated that there are over 8.5 million people with disabilities in Britain which is around 14 per cent of the population⁸. People who have sensory impairments or learning disabilities, dexterity problems or literacy problems (such as dyslexia) or are profoundly deaf and use BSL as their first language are the most likely to have difficulty taking part in research that uses standard formats to collect the data. These groups will include a large number of older people and some will have multiple disabilities.

Maximising inclusiveness for these people could include arranging for information to be provided and data to be collected using some of the following methods:

- duplicate letters and paper questionnaires in larger font size
- information on audio tape
- information and questionnaires in braille
- formats accessible to people with learning disabilities
- Makaton⁹ or other symbol system
- Providing information and carrying out interviews over the phone (including textphone)
- interviewing face-to-face
- sending out information and interviewing electronically using disks or e-mail
- providing sign language interpreters for people who have difficulty hearing

Data collection: other issues

Cultural awareness: For certain groups of women it may be unacceptable to be alone with a male interviewer or to be in the company of a man she does not know. For face-to-face interviews it may be necessary to either provide a female interviewer or to allow a male relative to be present. The issue with the second option is that the person being interviewed may be less open than she otherwise would be. For focus groups it is advisable to arrange for an all-female group facilitated by a woman.

Financial barriers: We would normally expect interviewers conducting face-to-face interviews to offer to travel to the respondent's home, so that the respondent does not incur any travel costs. This is clearly not possible with focus groups, when it may be appropriate to pay for participants' travel and child/adult care costs in addition to any incentive payment. This should ensure that financial barriers do not prevent participation.

Geographical barriers: Some customers may live in areas that are socially excluded and where interviewers may feel uncomfortable about travelling. We would expect interviewers to go to all areas included in the sample, but if it looks as if this may be a problem it is worth asking contractors at the

⁸ Grundy, E et al, *Disability in Great Britain. 1999.* DSS Report 94.

⁹ Makaton is a unique language programme using a multi modal approach devised for children and adults with a variety of communication and learning disabilities.

commissioning stage how they will deal with it and how they will maximise inclusiveness. (See also Section 3.10 below).

Researcher responsibilities

Often the steps that can be taken to maximise inclusiveness will increase the costs of the research and/or be difficult to implement in practical terms, for example if there are difficult constraints on the timetable. Some may even affect the quality or the type of the data that can be obtained. The researcher therefore needs to weigh up the pros and cons of taking or not taking steps to reach potentially excluded sections of the population for each individual research project. As with most of the issues covered in this paper, you need to allow time to consider the ethical implications of each individual project and formulate suitable strategies at the design stage.

The ITT should state that the Department is committed to improving inclusiveness in its research, highlight the relevant inclusiveness issues and make reference to how findings are strengthened by adopting approaches that enable participation. Tenderers should be asked to give thought to these issues in their 'Methodology' section and formulate appropriate proposals to address them. Depending on the nature of the project, it may be appropriate to take these ideas into consideration during the evaluation of the tenders and the weight that is given to them will depend on how important they are to the efficacy of the study.

3.10 Researcher and Respondent Safety

There are some key areas concerning safety of researchers, which need to be taken into account when designing and contracting research. While the primary responsibility lies with the research organisation under terms of the Health and Safety at Work Act (1974) we also need to be aware of what we can do in the design, tendering and contracting stage.

Planning for Safety in Design

We can begin to think about safety at the design stage:

- Choice of methods – is it necessary for the interviews to be conducted face to face? Would paired interviewing be appropriate? In the latter case, though, it is important to ensure that respondents do not feel threatened by the presence of a second interviewer.
- Interview site - is it necessary for interviews to be conducted in the respondent's home? If not where would be a suitable location?
- Recruitment methods – will there be hostility about how customers were sampled? How can this be overcome?
- Timetables – when attempting to meet tight deadlines researchers may be tempted to compromise their safety. Can you build in extra time for data collection?
- Sample – can we identify potentially violent participants with our databases and if so exclude them from the sample? Are there high-risk areas researchers will be expected to go that need special attention?

Costing for Safety

In order to be committed to researcher safety we must be prepared to pay when necessary. It is important to distinguish between infrastructure costs, which are borne by the organisation in their day rates for researchers, and additional money required for safety precautions in a particular project (for example paired interviewing). It may prove useful to ask contractors to specify how will they address safety issues as part of the tendering process. A future problem, which may emerge, is the “black listing” of areas by research organisations whereby researchers are not prepared to travel to certain locations for safety reasons. There are two problems with this, firstly it is not acceptable for Government Departments to participate in this form of discrimination and secondly on what basis do organisations identify these problem areas? We need to begin to think carefully about how we would justify additional resources for safety in these instances.

Respondent Safety

A related concern is the safety of respondents and in particular those under 18 years of age. Since the media attention regarding Criminal Records Bureau (CRB) checks for personnel in schools, some organisations used for sampling children have requested that interviewers have the same checks before they will release a sample. In some cases, for example if organisations are contracted to provide information, we could insist that they release the data but it is good practice to address this issue in the tendering process.

It is recommended that this issue should be addressed on a case-by-case basis. For example a recent survey conducted by DfES did not require CRB checks on researchers interviewing children in the main stage fieldwork taking 15 minutes but for one hour qualitative follow up where the child’s parent or guardian would be actively discouraged from being in the room and sensitive information may be revealed CRB checks were sought. The Department absorbed the cost of the CRB checks in this instance but future debate is required to decide who has ultimate responsibility for this. Also we need to bear in mind that there is generally a high turn over of field staff in research organisations, the checking of whom could increase costs, and at present there is no guidance regarding the length of time a CRB check remains valid.

4. Research Governance

Procedures to ensure that ethical issues are considered in our research are becoming increasingly important. For some time, established systems for monitoring health and social care research have existed, although these are primarily concerned with the impact of medical interventions on NHS patients. At present the focus of DWP is primarily concerned with socio-economic research and therefore should not be subject to the same kind of scrutiny as, for example, medical trials. In order for research to be fundamentally ethical, it needs to feed effectively into policy development. This means it needs to be timely¹⁰. This needs to be taken into account when any government department develops a monitoring system for research governance.

However as the issues in this paper demonstrate, as social researchers we have certain ethical **obligations and responsibilities**. It is very important that we are considering all the ethical and legal implications of our research at every stage; this is something we need to take very seriously in our day-to-day work. It is equally important that this scrutiny is visible, which means putting in place systems to ensure that it occurs. At the time of writing the Prime Ministers Strategy Unit in the Cabinet Office was assessing the practices of Government Departments in maintaining ethical standards in all Government funded research. The outcome of this will contribute to the debate as to how to provide suitable monitoring of research.

Research Governance is concerned with quality assurance and comprises:

- arrangements to define and communicate clear quality standards;
- delivery mechanisms to ensure that these standards are met;
- arrangements to monitor quality and assess adherence to standards.

A key document for research governance is the NHS framework <http://www.doh.gov.uk/research/rd3/nhsrandd/researchgovernance.htm> which covers and clarifies the roles and responsibilities of a wide variety of individuals and organisations involved in health and social care including patients, users and local authorities. Research governance is aimed at continuous improvement of standards and the reduction of unacceptable variations in research practice. Within the setting of Health and Social Care Research five key domains are identified, and some of these (outlined below) are applicable to the social research that DWP conducts:

Ethics

The issue of informed consent is at the heart of ethical issues in NHS research and participants are encouraged to be involved at all stages from design to dissemination. This framework covers issues such as the need for

¹⁰ Professor Janie Percy-Smith; Promoting Change through Research & Models of Research Impact. Presented at 2002 SRA Annual Conference

respect for research participants, maximising inclusiveness in our research and the possibility of involving representative organisations on research project steering groups. Conducting feasibility work is also an important way of involving participants in the design of research. These are all issues that are highly relevant for the DWP and which are covered in this paper.

Science

The NHS guidelines suggest that it is important that work is not duplicated and that systematic reviews are considered prior to research being undertaken. Experts in the relevant field of medical research should subject all proposals for research to review. It is also important that DWP research is organised in such a way that we do not go back to people constantly asking the same questions (even if policy customers request this, for example where small changes are made to a pilot design). Instead we should make use of existing research and data to answer questions if possible. Our role as researchers includes working together with other analysts and keeping up with developments external to the Department to ensure the evidence base is comprehensive, useful and utilised. In practice however we are often required to design research to answer specific policy questions. It may, though, be possible for us to do more in terms of peer review, by inviting review of our annual research programme.

Information

The NHS guidelines indicate that research should be conducted for the benefits of patients, users, care professionals, and the public in general. There should be free access to information on both the research being conducted and on the findings. DWP already adheres to this principle, since the annual research programme and research findings are published but there is room for improvement.

Health, Safety and Employment

According to the NHS guidance, the safety of participants and researchers must be given priority at all times and health and safety regulations must be strictly observed. These issues are also covered in this framework.

Intellectual Property Rights

In the field of social research, these remain highly complex, a full discussion of which is beyond the scope of this paper. The main points are covered within our standard contracts.

RESEARCH GOVERNANCE OPTIONS AVAILABLE

As mentioned above, research governance involves:

- arrangements to define and communicate clear quality standards;
- delivery mechanisms to ensure that these standards are met;
- arrangements to monitor quality and assess adherence to standards.

The purpose of this framework document is to cover the first point above. The next stage will be to put into place suitable and observable compliance arrangements. We have identified a range of options, from relying on the individual discretion of researchers at one extreme, to instituting a formal committee to scrutinise each research project at the other. The options are discussed below.

Individual Discretion

- This is essentially what has been done in the past. With no formal guidelines or process in place, ethical issues were left to individual research officers. This approach does not address any of the three areas of research governance mentioned above.

Additional Training for Social Researchers on Ethical Issues

- This ethical framework serves to define and communicate quality standards for the Department's social researchers. It provides the basis for additional training for researchers to help inform decisions about future evaluations and research projects.

Ethical Check List

- A checklist form could be developed which allows projects to be scored for ethical issues. Cut off points would then be used to decide if a project should be given special attention.
- If a project were above the cut off point it could, for example, be forwarded to the Head of Profession to examine further and offer solutions/comments on how to proceed. These forms would then provide data on all projects in the Department and could be used for monitoring/evaluation and for external audit.
- This kind of approach would effectively put in place a delivery mechanism that could be monitored.

Team Checking

- This would involve increasing the formality of our current evaluation process, with a requirement for researchers who are designing evaluations or Invitations to Tender for research where there are particular legal or ethical issues to have had additional training in

handling these issues. Contractors would also be expected to address these issues and tender documents would be judged on these.

- There would then be an additional form for Team Leaders to complete/sign off in order to identify and address any ethical issues involved, which again could be used for monitoring/evaluation should it be required.
- This approach also covers issues of delivery and monitoring, but with an increased level of independent scrutiny by team leaders.

Inter Team Reviews

- This would essentially be a form of peer review, which all research can benefit from.
- Individuals from other teams/divisions would be encouraged to peer review other teams' research design and assess any potential problems. Individuals could volunteer or there would be a rolling system in place so that all researchers would peer review for a limited period (perhaps 1 month). This would encourage researchers to learn more about ethical issues and address them in advance.
- It could be that we do not allow evaluations and research to be reviewed from within divisions. This cross-divisional approach would also allow researchers to find out about other work conducted within the Department.

Inter Governmental Reviewing

- As there is currently a review of ethical practices by the Government Chief Research Officer it may be that a co-ordinated approach is required perhaps through the GSR (although there is no ethical committee at the moment).
- This approach would take the same form as the cross-divisional peer review described above, but would be across Government Departments. Each year a different department could take the lead. This would require a clear set of guidelines/principles, which are applicable to all Departments and would show a consistent approach, but may ultimately be too unwieldy to be practical.

External Academic Reviewing

- A key problem with the approaches above is that they are internal and could be viewed as insufficiently objective/independent. The Ethics Group that initiated this document addressed this problem and raised concerns that any system that clears or screens projects is in danger of becoming tokenistic.
- Another approach would be to invite external assessment of the approaches we take to our research. In order to avoid the Department's pilots and programmes themselves being scrutinised, external review would need to be restricted to the Department's ethical framework and compliance practices. The annual report would also invite people to ask the Department to provide information on how individual projects were conducted.

Medical Ethics Style Committees

- Ethics committees (Medical Research Ethics Committees or MRECs) sit at regular intervals and usually consist of 18 medically qualified and lay members (12 on local committees). It can take up to 60 working days for a committee to give clearance for a project. The process consists of completing a form, which is submitted to the committee. Members of the research team may also be required to attend the committee meeting where the project is being debated. DWP sponsored research that involves research with NHS staff or patients is required to obtain clearance from an MREC.
- Research can only proceed if clearance has been agreed by the committee in advance and the committee may ask for changes to the project in order for agreement to be given.
- Ethical considerations in social research are highly project specific. While for medical research they are largely concerned with avoiding potential harm to participants, in social research ethical concerns are largely concerned with avoiding undue distress and ensuring that people have an equal chance of participating in the research. It is unlikely that an ethics committee would be the best judge of whether a research project is going to be distressing. Much depends upon the detail of how the fieldwork is designed and carried out. This needs to be monitored throughout the life of the project, something that prior scrutiny by a committee is not able to assure.

Conclusions

Developing common practice to address ethical issues involves a common approach to commissioning and tendering research and evaluation projects. In order to ensure this, ethical considerations need to be included in the Department's tender evaluation criteria. One way of doing this would be for the Department to develop standardised evaluation criteria on ethical issues and to have common ways of probing contractors at Tender Boards. These criteria could be subject to external review at intervals of perhaps one or two years. But in order for these to really tackle the issues relevant for each project, there would need to be a degree of flexibility. Every project is

different and it is only by approaching each one with a broad mind that ethical issues can really be addressed.

Some of the ideas described above have implications for the timescales involved in designing and commissioning research. Different projects require different levels of consideration of ethical issues and the ideal system would need to be flexible enough to take this into account. There is a balance to be achieved between establishing a common approach to ethics in government research and achieving the flexibility that enables ethical issues to be fully addressed for individual projects and in a practical timescale. Equipping the Department's social researchers to address these issues requires first that quality standards are clearly defined and accessible. This is what this document aims to achieve. Putting in place delivery mechanisms and monitoring arrangements is the next step; the authors recommend that the check list option mentioned above would be a good way of doing this.

5. Do the Right Thing: the Way Forward

5.1 The government researchers' responsibility

Working without a formal research ethics committee to scrutinise our work, means that responsibility for ensuring that DWP social research is carried out to the highest possible ethical standards lies with the Department's social researchers. Future debate is required regarding the steps the Department will take towards implementing a research governance framework. In the meantime, social researcher officers should adhere to the following points and refer to the practical advice shown in table 1.

5.2 Legal/Ethical Checklist

Following these basic steps should help you to do this:

- Ensure tenderers and contractors have access to this guidance by including it in ITTs
- Always consider the ethical implications at the design stage of a project and continue to monitor these throughout the project. Each project is different – meeting high ethical standards for a given project will often need to be weighed up with practical considerations such as timescale, cost, the population under study
- Don't let ethical standards slip during the course of a project – make sure you stick to the standards you set at the beginning and don't compromise these
- Get the policy customer and the contractor on board at an early stage – this is the only practical way to ensure that ethical issues are taken seriously
- Ensure that policy customers are aware of potential legal or ethical issues, which may affect the research from the start
- Refer to legal and ethical issues within the Invitation to Tender – ask contractors to consider these and to explain their approach in their proposals. This encourages contractors to take ownership of ethical issues at an early stage and will help to ensure that they are addressed in practice.
- Consider whether it might be appropriate to include ethical considerations as one of the criteria for tender evaluation and make this clear in ITTs.
- Ensure that legal issues are written into the contract and consider including ethical points in the contract if appropriate

- Consider whether it may be appropriate to set up an Advisory Group for the project, which might include, for example members from groups that represent particular vulnerable groups eg The Refugee Council or MENCAP. This will be most appropriate if the population for the study is likely to include a large proportion of people from these groups. Working with advisory groups can result in significant additional work for the project manager, which you will need to take into account when planning the work. It is also important that the terms of reference of the group are clear and that organisations are not permitted to use them to promote their own agendas/priorities. Academic consultants can be used in a similar way, allowing us to draw on the expertise of the wider academic community and encouraging its greater involvement in our research.
- Consider whether it is worth asking an organisation such as MENCAP to check research documents, such as information sheets and opt-out letters, for simplicity and clarity of language.
- Many of the ethical issues discussed in this framework can be addressed by using appropriately trained interviewers. This can be difficult to judge, particularly when commissioning a large-scale survey, where the contractor employs the field force without any information about the interviewers being necessarily provided in the tender. Nevertheless, the commissioning researcher has a responsibility to seek information about the field force, for example, recruitment practices and diversity of interviewers; on the basic training that they receive; additional project-related training (for example, on conducting interviews with people with disabilities); and health and safety procedures (such as, conducting fieldwork in specific areas). These issues need to be addressed in the tendering process and taken into account in the tender evaluation under the 'suitability of staff' criterion. They also need to be monitored throughout the life of the project as an operational issue.
- Many ethical issues are subjective. If you are in any doubt, discuss with your peers and line manager. Ultimately, issues that are not clearly resolved should be referred to the Head of Profession for Social Researchers, George Clark.

Table One: MAINTAINING ETHICAL AND LEGAL STANDARDS IN RESEARCH

In order to maintain high ethical and legal standards in Government Research we can take some of the following steps. The key issue is to build them in during the development plan.

RESEARCH STAGE

STEPS TO TAKE

INITIAL DISCUSSION WITH POLICY COLLEAGUES	Refer to legislation sources and seek solicitors' advice if anything is unclear. Ensure that colleagues are aware of any legal issues when for example setting up pilots. Refer to existing ethics codes of conduct. Be clear that the Department is committed to conducting research to high ethical standards.
PEER REVIEW/LINE MANAGEMENT STRUCTURE/	It is normal practice for line managers to review all work. Have they identified any ethical issues? Have they looked? Are there other people in your department who may offer an informal review of your projects? Is there any external organisation who are advocates for the groups you are researching? Would it be advantageous to include them at this stage or to set up a project advisory group?
HIGH LEVEL EVALUTION DESIGN	Include a section on legal and ethical implication of the overall strategy and the specific projects. For example if you expect to sample high numbers of disabled customers/ESOL customers develop strategies for ensuring field staff are trained to cope with this.
RISK MANAGEMENT	Do you have any systems in place to monitor/assess the ethical/legal issues in advance? How will you monitor and respond to complaints? Imagine the worst-case scenario and prepare to deal with it in advance.
INVITATION TO TENDER / SUBMIT PROPOSAL	Include a paragraph on how the contractors would ensure and maintain high ethical standards. For example increasing inclusiveness and ensuring researchers safety.
JUDGING PROPOSALS	Where possible assess an organisations internal monitoring systems, recruitment practice and researcher training.
CONTRACT	Set out that the contractor ensures researchers have the right level of clearance to conduct interviews (and carries cost for this). For example it is good practice for interviewers to have Criminal Records Bureau checks when interviewing children?
FIELD WORK	Do you participate in the field briefing? Have you covered ethical issues and provided training?
MONITORING	How do you intend on ensuring the contractor sticks to the standards set?

ANNEX 1

Sharing Administrative Data held by the DWP

The Social Security Act 1998 Section 3(1) and (2) allows information held by the DWP relating to social security, child support to be used for any function connected with social security or child support.

Sections 3(1) and (2) also allow the DWP to pass and receive the same information to persons providing services to them. This means that DWP functions such as some data processing can be carried out by contractors.

Section 122C of the Social Security Administration Act 1992, inserted by Section 3 of the Fraud Act permits the DWP to supply information to Local Authorities.

Information may be supplied for use by Local Authorities in administering Housing Benefit or Council Tax Benefit, including the prevention, detection and investigation of offences relating to those benefits. There are restrictions on the use of the information, the purposes for which it may be supplied and its onward supply.

Section 121F of the Social Security Administration Act 1992, also amended by the Transfer of Functions Act, requires the DWP to supply information held for social security purposes to the Inland Revenue to use for the purposes of contributions, Statutory Sick Pay or Statutory Maternity Pay.

Schedule 5 paragraph 3 of the Tax Credits Act requires the DWP to supply information held for social security purposes to the Inland Revenue to use for Tax Credit purposes.

Section 110 Finance Act 1997 permits DWP to disclose confidential information held for the purposes of DWP functions to the Customs and Excise and Inland Revenue for:

- use in the prevention, detection, investigation or prosecution of criminal and civil offences relating to Revenue matters; the assessment of Revenue penalties;
- checking the accuracy of information for purposes connected with matters under the care and management of the Revenue....and for amending or supplementing such information.
- use in legal proceedings relating to the above.

This is similar to section 122 of the Social Security Administration Act 1992 but in the reverse direction.

Information provided by the Inland Revenue and Customs and Excise for purposes relating to social security but excluding information in connection with National Insurance contributions.

Section 122 of the Social Security Administration Act 1992 inserted by Section 1 of the Fraud Act and further amended by the Transfer of Functions Act, Schedule 6 and the Tax Credits Act 1999 Schedule 5, permits the supply of information held by the Tax Authorities to the DWP.

Information may be supplied for the prevention, detection, investigation and prosecution of social security offences and to checking, correcting or adding to, information relating to social security.

Where information supplied is used to amend or supplement other DWP information, it may be disclosed or used for any purpose that is lawful. The onward supply of information by the DWP is limited to those who could have received the information in their own right under this Section, or for the purpose of civil or criminal proceedings relating to social security, or to local authorities in connection with Housing Benefit or Council Tax Benefit.

Information provided by the Inland Revenue for purposes relating to National Insurance contributions.

Section 121E of the Social Security Administration Act 1992 inserted by paragraph 1 of Schedule 6 of the Transfer of Functions Act 1999, provides for the disclosure of information relating to contributions held by the Inland Revenue to the DWP. Section 121 E also requires the Inland Revenue to disclose to the DWP information relating to Statutory Sick Pay and Statutory Maternity Pay.

Information provided by the Inland Revenue about Working Families' Tax Credit and Disabled Person's Tax Credits

Schedule 5 paragraph 2 of the Tax Credits Act 1999 requires the Inland Revenue to supply information held for any functions relating to Tax Credits to the DWP to use for social security purposes.

Other government information

Section 122B of the Social Security Administration Act, inserted by Section 2 of the Fraud Act and further amended by the Transfer of Functions Act, permits Other Government Departments to supply some other kinds of information to the DWP.

At present the information supplied under Section 122B is limited to information about passports, immigration and emigration, nationality or prisoners.

Information may be supplied only for the purposes of the prevention, detection, investigation and prosecution of social security offences or for checking and amending information relating to social security.

Where information supplied under this Section is used to amend or supplement other DWP information, it will then become part of DSS records and may then be disclosed or used for any purpose for which DSS information may lawfully be used.

The onward supply by the DWP of this information is limited to those who could have received it in their own right under this Section, or for the purpose of civil or criminal proceedings relating to social security, or to Local Authorities in connection with Housing Benefit or Council Tax Benefit.

Local Authority information supplied to the DSS

Section 122D of the Social Security Administration Act (inserted by Section 3 of the Fraud Act) enables the DWP to require Local Authorities administering Housing Benefit or Council Tax Benefit to supply benefit policy or benefit administration information to the DWP for use in any purpose relating to social security.

ANNEX 2

The Human Rights Act 2000

The Human Rights Act (HRA) enables the rights and freedoms of the Human Rights Convention to be available in the UK courts from 2 October 2000 and domestic law must now be read in the light of it. The Act means that all other law and the actions of all public authorities (including their internal processes) must comply with the Convention.

The Convention is a “living instrument”. That is, the rights covered do not have fixed parameters, but may change over time as social values change. Some of the Convention Articles give absolute rights. There can be no justification for a breach of those articles. Some are qualified so that the state can place reasonable restrictions on individual rights in the public interest. The key point when considering the potential vulnerability of policies and procedures to challenge are that there needs to be a clear objective behind any policy or procedure. It should be possible to state *what* it is intended to achieve and *why*.

The Main Articles

(from DWP Intranet Link – ‘about DWP’ then ‘Parliament and DWP’)

Many Articles may be relevant to DWP business – the four which are most applicable are:

Article 6 – Right to a fair trial

The requirements of Article 6 affect most DWP business and must be considered in all aspects of decision-making, including in particular the imposition of penalties and sanctions. It is important first to establish with Sol A5 whether the area with which you are dealing does in fact concern a civil right or obligation under the terms of Article 6.

Article 8 – Right to respect for private and family life

This article should be borne in mind across the Department’s work. The article is relevant to information gathering and usage and also may be relevant to other ways in which the Department’s work has an impact on family life. An example might be fraud investigation.

Article 14 – Prohibition of discrimination

This Article prohibits discrimination in access to another Convention right. In determining whether this Article applies, it is therefore necessary to look first at whether the matter complained of comes within the scope of other Articles. If it does, discrimination is prohibited in a wide range of fields – much wider than is covered by existing domestic law and EU directives. It is important to remember that a difference in treatment does not necessarily mean discrimination. For example, the Court has held that it is acceptable to treat

married couples differently from unmarried couples because society recognises that their state is not truly comparable.

There are many ways in which the Department's rules intentionally treat people differently, for example, on the grounds of their age. The distinctions that are made must be fair, objective and proportionate to the policy aim they are designed to meet.

Article 1 of the First Protocol – Protection of property

This article prohibits the state from interfering with people's possessions unless there are good reasons for doing so. It is possible that benefits, particularly contributory benefits, will be considered by the Court to be possessions. With this in mind measures or decisions to reduce a person's benefit for example, must be carefully considered and strike a fair balance between the individual and public interest.

Annex 3: Useful contacts and websites

Data Protection Act

www.dataprotection.gov.uk

Disability Discrimination Act

www.disability.gov.uk

Human Rights Act

www.lcd.gov.uk/hract/

Codes of conduct

Market Research Society www.mrs.org

National Statistics Code of Practice www.statistics.gov.uk

Social Research Association www.the-sra.org.uk/index2.htm

British Psychological Society www.bps.org.uk

Random Assignment

<http://www.dwp.gov.uk/asd/asd5/IH94.pdf>