

# **Scottish Social Services Council (SSSC) Official Statistics Protocol**

## **Social Services Workforce Data**

### **A) Introduction**

Statistics are fundamental to good Government, to the delivery of Public Services and the decision making in all sectors of society. However, the public need to have confidence in the quality impartially and comprehensiveness of these statistics. To this aim the Scottish Government have introduced a legislative framework setting out how statistics are produced and managed. Statistics governed by this framework are given the status of being 'Official Statistics'.

Under S58 of the Regulation of Care (Scotland) Act 2001, the SSSC has delegated responsibility to ascertain the numbers of workers in the social service sector, producing an Annual Workforce Report is the chief output associated with this duty.

The SSSC has recently taken over from the Scottish Government, responsibility for conducting the annual census of local authority social work services staff as part of its work in producing the Annual Workforce Report. In order for the Annual Workforce Report to be recognised as Official Government Statistics the SSSC must be the recognised Official statistics producer and as such must comply with the legislative framework.

There are both benefits and responsibilities associated with official statistic status. It clarifies the importance of the figures, their authority and also gives assurance of their quality and integrity.

Please read this paper carefully. All staff share corporate responsibility for ensuring that the council complies with the National Statistics Codes of Practice and legislative provisions in order to retain its status as an Official Statistics provider. In addition, as can be seen below certain designated staff have enhanced and specialised responsibilities to safeguard the handling of the Data and ensure compliance. The relevant staff and their contact details are contained in annex A.

### **B) Official Statistics Regulations and Guidance**

The relevant legislative provisions and requirements are contained in Annex B.

This protocol is to promote staff compliance with these provisions. Staff must also ensure that they are familiar with All Staff SSSC Guidance Document on United Kingdom Statistics Authority – Code of Practice for Official Statistics (CPOS) contained in Annex G.

### **C) About the UK Statistics Authority**

The UK Statistics Authority is an independent body operating at arm's length from government as a non-ministerial department, directly accountable to Parliament. It was established on 1 April 2008 by the Statistics and Registration Service Act 2007.

The Authority's statutory objective is to promote and safeguard the production and publication of official statistics that serve the public good. It is also required to promote and safeguard the quality and comprehensiveness of official statistics, and ensure good practice in relation to official statistics.

The UK Statistics Authority has two main functions:

1. oversight of the Office for National Statistics (ONS) - its executive office
2. independent scrutiny (monitoring and assessment) of all official statistics produced in the UK.

National Statistics are those official statistics which are assessed by the UK Statistics Authority as meeting the requirements of the Code of Practice for Official Statistics. They can comment on any statistics that the public might consider official and can recommend that particular statistics are brought into scope. In practice they are only likely to do so if there is an issue about misuse which is drawn to their attention.

Producers must agree to provide information as requested by the Authority.

In order for statistics to gain National Statistics status the SSSC must be confident that production and publication of the statistics meet the requirements of the Code to the satisfaction of the UK Statistics Authority. The UK Statistics Authority can award Official Statistics Producer status but can equally take it away if the producer does not comply with the Legislative Framework and Code of Practices.

### **D) Code of Practice for Official Statistics**

- i. The UK statistics Authority creates a Code of Practice and in order to maintain the status as a statistics producer the SSSC must comply with it.
- ii. Observance of a common Code of Practice, by all the public bodies that produce official statistics, is central to maintaining a unified statistical service that meets the needs of government and society and is both trustworthy and trusted.
- iii. The *Statistics and Registration Service Act 2007* requires the UK Statistics Authority (the 'Statistics Board' in the Act) to prepare and publish a Code of Practice and to assess compliance against it. Official statistics assessed as compliant are to be designated as National Statistics. Bodies that

produce National Statistics are required to ensure that the Code continues to be observed. For other official statistics, compliance with the Code is not a formal requirement.

- iv. The code encompasses the core values of integrity, honesty, objectivity and impartiality. In relation to statistical work, these are interpreted as follows.
  - Integrity – putting the public interest above organisational, political or personal interests.
  - Honesty – being truthful and open about the statistics and their interpretation.
  - Objectivity – using scientific methods to collect statistics and basing statistical advice on rigorous analysis of the evidence.
  - Impartiality – acting solely according to the merits of the statistical evidence, serving equally well all aspects of the public interest.
- v. The Code contains eight principles and, in relation to each, a statement of associated practices. It also contains three more detailed protocols – on user engagement; on the release of statistics; and on the use of administrative data for statistical purposes. The Code has been framed to support the assessment of compliance by the UK Statistics Authority.
- vi. Taken together, the principles and protocols of the Code are intended to ensure: that the range of official statistics meets the needs of users; that the statistics are produced, managed and disseminated to high standards; and that the statistics are well explained.
- vii. The Code does not cover requirements in relation to 'pre-release' access to statistics in their final form. Pre-Release Access is governed by legislation which provides the rules and principles relating to the granting of such access. Details of the pre-release provisions follow below.
- viii. Under some circumstances it may be appropriate for the UK Statistics Authority to agree exemptions or exceptions to the practices, though not to the principles. Where a body that produces National Statistics is aware of a need for an exemption, it should make a case to the Head of Assessment. Details of all exemptions and exceptions will be made public.
- ix. It is implicit in the Code that there will be sufficient managerial separation between staff responsible for official statistics and other staff of the organisation, to ensure clear lines of accountability for observance of the Code.
- x. The eight principals and three protocols in the Code which official statistics providers must adhere to are listed in Annex C(i) and (ii) respectively attached (this summary is no substitute for the information contained in the Code of Practice itself).

## **E) Pre-release Access of Official Statistics – Operational Arrangements**

### **i) Introduction**

This statement sets out the Scottish Social Services Council's (SSSC) operational arrangements for giving Ministers and their officials pre-release access to National Statistics once they have attained their final form prior to publication. These arrangements are designed to ensure that such access is justified, limited, controlled and publicised and complies with statutory requirements. Their purpose is to maintain public confidence in the integrity of official statistics while allowing Ministers to account immediately for the implications of statistics covering policy areas for which they are democratically responsible.

These arrangements have been drawn up by the SSSC Policy and Strategy Manager for Statistics. The SSSC's Head of Strategic Development is responsible for ensuring the day-to-day implementation of these arrangements.

### **ii) General Principle**

SSSC operates under the general principle that pre-release access to official statistics must be:

- limited to the minimum number of persons deemed necessary to allow the Minister to either:
  - provide responses to questions, or make statements about those statistics at, or shortly after, their time of publication;
  - take action just before, at, or shortly after the time of publication.
- allowed in circumstances where the public benefit likely to result from such access outweighs the detriment to public trust in official statistics likely to result from so doing.

### **iii) Grant of advance access**

The arrangements set out in this statement are confined to those persons who meet the eligibility criteria set out in Annex D(i) attached. Recipients can, in addition, share their access with their immediate administrative support staff even though those staff may not directly engage with the statistics in question.

Their advanced access is limited to statistics which meet the eligibility criteria set out in Annex D(ii) and which are in their final form prior to being published for the first time.

#### **iv) Period of access**

In line with the legislative rules, pre-release access to the organisation's official statistics arrangements is specified in Annex D(iii).

#### **v) Conditions of access**

Those persons who are given access to SSSC's official statistics ahead of their release must keep the statistics secure and under embargo, and they must abide by certain conditions of access. They must avoid:

- disclosing the statistics or any part of a publication containing those statistics to any person not listed as a pre-release recipient;
- providing any indication of the size or direction of any trend revealed by the statistics;
- using such access for personal gain, or taking any action for political advantage;
- exploiting such access to change or compromise the content, presentation, or timing of publication of official statistics.

#### **vi) Breach of conditions of release**

In the event of a breach of the principles and rules set out in the legislation and described in this Statement, the SSSC's Head of Strategic Development will notify the UK Statistics; take action to prevent a recurrence; and provide the Authority with a written explanation. The National Statistician may decide to conduct an inquiry on behalf of the Authority, the results of which will be posted on the Authority's website.

To assess whether a breach is minor or significant you should consider the following factors:

- **Effect** – if the breach has resulted in a public leak of the information (or there is a significant risk that it could do so), or has resulted in any detriment to public trust in the integrity of official statistics, then the breach should be considered significant.
- **Who was involved** – if the information was leaked beyond the Public Body publishing the statistics or the Scottish Government, except where access has been ordered for partner bodies under the provisions of the pre-release order, then this should be classed as a significant breach. An internal leak should be assessed in view of the other factors.

- **Scale** – this should be considered in relation to the risk of a public leak of the information, rather than simply the number of people involved.
- **Handling** – how quickly and effectively the breach was handled – in terms of preventing anything further happening.
- **Repeat offenders** – if the individual (or organisation) responsible for the breach is a repeat offender, then the breach should be reported.

The Head of Strategic Development, in the event of receiving notice of a breach of the principals of the Code of Practice or Protocols from any member of SSSC will investigate and where appropriate Report the Breach to the office for National Statistics Authority using the template contained in Annex F.

### **Sanctions against non-compliance**

The SSSC's Head of Strategic Development may, for a period, withdraw pre-release access from any person judged to have breached the conditions of their access.

In addition, a heavier sanction can be imposed by the UK Statistics Authority which has a statutory duty to assess the extent to which any organisation's 'National Statistics' comply with the Pre-release Access to Official Statistics Order 2008 and with the associated obligations set out in this Statement. The Authority can, for instance, challenge an organisation where it considers that pre-release access is not justified or where an organisation is failing to conform with these arrangements. It can also withdraw, or consider withdrawing, 'National Statistics' designation from the statistics in question.

This Statement covers the SSSC's National Statistics and other statistics produced by the SSSC's professional statisticians.

## **NOTES**

### **Pre-release access**

In the context described above, the phrase 'pre-release access' covers privileged access to statistical releases in their final form prior to being placed in the public domain. It does not cover pre-release access available to:

- those staff intimately engaged in the process of producing and disseminating the statistics in question (including those responsible for overseeing this process);
- those persons requested by the producers to quality assure the statistics before their public release.

## **F) Confidentiality, Data protection and Freedom of Information**

Maintaining confidentiality and adherence to the DP and FOI Legislation is an integral part of all SSSC work, not in the least publication of statistics. Staff are already aware of the corporate duties to adhere to SSSC guidance on complying with the Data Protection Act 1998 (see existing guidance in annex E).

The Information Commissioner Office recognises that Data controllers of organisations face difficult challenges, particularly in relation to production of official statistics and in particular the need to ensure anonymity.

Over the coming year the ICO proposes to do the following:

- Develop accessible guidance on anonymisation and the disclosure of statistical information. The ICO will work closely with the Office of National Statistics and other experts on statistical disclosure. The guidance will include a usable framework for assessing risks and making decisions about tolerable risks.
- The ICO will consider issuing the guidance in the form of a Code of Practice under section 51(3) of the Data Protection Act. Recital 26 of European Directive suggests that a Code Practice can be used to provide guidance on identification and anonymisation.
- The ICO will continue to raise the issue of anonymisation as an area the European Commission should address when drafting new European Data Protection legislation
- The ICO will consider whether there is merit in commissioning research to better understand the limitations of anonymisation and how risks can be mitigated. There is also a need to understand the public's expectations about the level of detail of open data disclosures and their view about the risks. Research may also include an overview of technology/privacy science based solutions and the benefits they offer.
- The ICO will continue to provide advice on significant projects that raise issues about the risks of anonymisation, such as crime data disclosure and the disclosure of prescription data.

## **NOTE**

A decision by the High Court in the case *Department of Health v Information Commissioner*<sup>5</sup> (April 2011) provided greater legal clarity about how the Data Protection Act should be interpreted when statistical information is requested under the Freedom of Information Act. The judgment found that the focus when disclosing the data was not whether it was personal data in the hands of the data controller but whether a member of the public could identify anyone from the data. This was the approach the ICO argued. The Court also agreed that the finding of the ICO and the Information Tribunal was correct in terms of the risks of identification. The order of disclosure was upheld. The Department of Health has not appealed the judgment and this now offers the ICO greater clarity on some of the legal issues. This approach the Court endorsed can now be incorporated into any guidance the ICO issues.

A recent report published the Ontario Information and Privacy Commissioner offers an important perspective and urges data controllers not to stop using de-identification. The report argues that properly applied anonymisation or de-identification techniques can protect personal information.

### **Security and Data Storage**

All staff working in the SSSC require a pass to access the premises and all visitors must be signed in and accompanied. There is no public access to any parts of the organisation where confidential statistical data may be held.

The SSSC is fully compliant with the security practices related to the British Standards on Information Security Management (BS7799) and its ISO27000/17799 series successors. No confidential statistical data are held on laptops or any other portable devices without approved access control or kept on unprotected portable storage media. All transmission of micro-data is conducted on encrypted email or encrypted memory sticks.

## **Annex A**

### **Specialised staff**

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## **Annex B**

### **Legislation**

- **2007 – Statistics and Registration Services Act**
  - Defined 'Official Statistics' and stated who produces them Created UK Statistics Authority
  - Created 'Code of Practice for Official Statistics'
- **2008 – Pre-release access to Official Statistics (Scotland) Order**
- **2008 – Official Statistics (Scotland) Order**
- **2010 – Official Statistics (Scotland) Amendment Order**
- **2012 – Official Statistics (Scotland) Amendment Order**

## **Annex C (i)**

### **Principle 1: Meeting user needs**

The production, management and dissemination of official statistics should meet the requirements of informed decision-making by government, public services, business, researchers and the public.

### **Principle 2: Impartiality and objectivity**

Official statistics, and information about statistical processes, should be managed impartially and objectively.

### **Principle 3: Integrity**

At all stages in the production, management and dissemination of official statistics, the public interest should prevail over organisational, political or personal interests.

### **Principle 4: Sound methods and assured quality**

Statistical methods should be consistent with scientific principles and internationally recognised best practices, and be fully documented. Quality should be monitored and assured taking account of internationally agreed practices.

### **Principle 5: Confidentiality**

Private information about individual persons (including bodies corporate) compiled in the production of official statistics is confidential, and should be used for statistical purposes only.

### **Principle 6: Proportionate burden**

The cost burden on data suppliers should not be excessive and should be assessed relative to the benefits arising from the use of the statistics.

### **Principle 7: Resources**

The resources made available for statistical activities should be sufficient to meet the requirements of this Code and should be used efficiently and effectively.

### **Principle 8: Frankness and accessibility**

Official statistics, accompanied by full and frank commentary, should be readily accessible to all users.

## **Annex C (ii)**

### **Protocol 1: User engagement**

Effective user engagement is fundamental both to trust in statistics and securing maximum public value. This Protocol draws together the relevant practices set out elsewhere in the Code and expands on the requirements in relation to consultation.

### **Protocol 2: Release practices**

Statistical reports should be released into the public domain in an orderly manner that promotes public confidence and gives equal access to all, subject to relevant legislation.

### **Protocol 3: The use of administrative sources for statistical purposes**

Administrative sources should be fully exploited for statistical purposes, subject to adherence to appropriate safeguards.

## **ANNEX D(i)**

### **Categories of persons within government to whom SSSC would normally grant pre-release access to its statistical releases....**

Those Ministers who have policy or operational responsibility for a particular subject-matter covered by a statistical release; who are accountable to Parliament and the electorate for their stewardship of that policy; and who may need to respond to questions about the statistics, or take appropriate action, at the time of release of those statistics.

(plus any immediate ancillary staff who support the above)

## **ANNEX D(ii)**

### **Categories of statistical release to which SSSC would normally grant prerelease access.....**

- Releases categorised as 'Market-sensitive' (i.e. releases which embody statistics which, when disclosed, would be reasonably likely to have a significant effect on the value or traded volume of any investment);
- Releases which incorporate statistics which are used to monitor or measure the government's performance (either generally, or against formal targets);
- Releases which have the potential to impinge substantially on the formulation, implementation, or monitoring of government policy;
- Releases which have the potential to inform, or impact on, decisions about the allocation of public funds;
- Releases which have, demonstrably and historically, had a high public profile (i.e. regularly generate column inches in the print media or regularly attract the attention of the broadcast media) and on which Ministers or Chief Executives with responsibility for the subject-matter might reasonably be expected to comment at the time of release;
- Releases which incorporate statistics derived from other departments' or agencies' administrative or management systems, and for which Ministers or Chief Executives in those other departments have ownership and operational responsibility;
- Compendia publications (which often include data which has already been released) or complex publications which have been made available to the media in advance of their public release, and under embargo, in order to give journalists time to absorb and understand their contents;
- Releases which cover matters of wide public interest.

## **Annex D(iii)**

### **Pre-release protocol**

Around 12 months prior to publication

#### **Task**

- Pre-announce publication and planned month of release.
- Inform statistical users and others of this planned release. For example, include the publication details on the SSSC or Scottish Government websites. Also ensure that regular (e.g. quarterly) updates on planned publication dates are provided to the SSSC Executive Team.

Around 6 weeks prior to publication

The publication tables and text are now being produced in “draft form”. Sections of draft workings can now be shared with others for any specific quality-assurance purposes where required (for example to check if any particular trends are correct and/or gauge if the emerging main findings are being interpreted accurately).

Quality-assurance recipients will differ for each publication given the different topic areas, but may potentially include some of the following:

- Other SSSC Analysts who have experience in working with similar data
- SSSC topic based experts, e.g. Professional Advisors or other colleagues with specific sector-based knowledge that can help with interpreting the statistics
- External stakeholders with specific expertise, for example other organisations that are collecting similar data or who are able to provide insights into any trends

#### **Task**

- Liaise with Comms to identify any concerns over potential publication dates and agree a feasible release-date given any other SSSC publications or outputs that may be planned. (Note: final decisions on timing of publication should rest with the Team)
- Circulate sections of draft workings for specific quality-assurance purposes where required
- Pre-announce exact planned date of publication

- Inform statistical users of the planned date of publication to all known users of the statistics (for example email ScotStat users and other known users inside and outside of the SSSC)
- Contact Scottish Government Sponsorship Team to request a list of “final form” pre-release recipients within the Scottish Government
- Confirm design style of publication with Design Team

### 3 weeks prior to publication

The sharing of draft tables for quality-assurance purposes is now complete

#### **Task**

- SG Sponsorship Team to confirm list of “final form” pre-release recipients within the Scottish Government
- Produce list of “final form” pre-release recipients (both SSSC and others) and agree this with relevant members of EMT.

### 1 week prior to publication

The publication is now in its “final form”, i.e. we would not expect any content to change from now on (except for any minor drafting corrections that may be identified as a result of final checks on the tables and text).

The publication can now be released for pre-release briefing purposes as per the Pre-release Access to Official Statistics (Scotland) Order 2008.

Final-form pre-release recipients will differ for each publication given the different topic areas, but may potentially include some of the following:

- SSSC Chief Executive
- SSSC Executive Management Team
- SSSC Head of Communications
- Scottish Government Sponsorship Team
- Scottish Government main Policy contacts
- Scottish Government main Communication Team contacts
- HolyroodPR contacts

## **Task**

- Circulate the final-form publication to pre-release recipients to enable the SSSC and Scottish Government / Ministers to be fully briefed on the statistics
- Analysts to meet with Comms to discuss the publication main findings
- Make recommendation to relevant members of Executive Management Team
- Produce news release if required
- Produce "statistical news release" and text for intranet/internet stories
- Provide final version of the publication to the Comms team so this can be prepared for loading to the website
- Comms team to load the publication documents to the website at 9.30am
- Respond to any technical media queries that might come in on the day
- Inform statistical users (eg by email) that the publication is now available

# **ANNEX E**

## **Scottish Social Services Council**

### **Data Protection Act 1998 – The Council's obligations**

#### **Guidance**

**May 2010**

Please read this paper carefully since all staff share corporate responsibility for ensuring that the Council complies with the provisions of the Data Protection Act 1998.

#### **1. Introduction**

1.1 The SSSC is registered with the Information Commissioner as a Data Controller under the Data Protection Act 1998 (DPA), which came into force on 1 March 2000. Registration brings with it certain obligations. The purpose of this paper is to remind staff of the main provisions of the Act and its significance for the work of the Council.

1.2 All staff are required to comply with this policy and SSSC Procedures.

#### **2. The Data Protection Act 1998**

2.1 The purpose of the DPA is to ensure that those who collect and use personal data protect the confidentiality of that data and maintain the confidence of those who are asked to provide it.

2.2 The DPA 1998 sets rules for processing personal information. The 1994 DPA applied only to computerised records, but the 1998 Act applies to some paper records as well as those on computers. It is appropriate that the Scottish Social Services Council as a new organisation observe the procedures set out in this document in the processing of all personal data.

#### **3. The Council as 'Data Controller'**

3.1 Under the DPA legislation and the guidance produced in relation to it, a 'Data Controller' is "a person who (either alone or 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". The Data Controller is responsible for complying with the Data Protection Principles set out in the Act.

3.2 The Legal Adviser is the Data Protection Officer for the Council. You should direct any questions on data protection issues to the Legal Adviser, who will either provide a response or seek further advice from the Information Commissioner, who oversees the implementation of the DPA.

3.3 Any loss or suspected loss of personal data must be reported immediately to your manager and to the Head of your department and to the Data Protection Officer. Where information is held in electronic form the loss must be reported immediately to the Business Development Manager also. Failure to report any such loss or suspected loss may be considered a disciplinary offence.

3.4 The Data Protection Officer will keep a register of any such losses or suspected losses and will report any such losses to the Chief Executive immediately. The register will inform the Accountable Officers Statement on Internal Control.

3.5 The relevant Head of Department will carry out an investigation as soon as reasonably practicable, commensurate with the level of seriousness of the loss or suspected loss and keep the Data Protection Officer informed. The Scottish Government and Information Commissioner and affected parties should be informed in accordance with the requirements of the Date Protection Act.

#### **4. What is 'Personal Data'?**

4.1 Personal data are defined in the DPA 1998 as:

"data which relate to a living individual who can be identified:

(a) from those data; or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller;

and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual"

4.2 This definition is intentionally very broad and will cover much of the data currently collected by the Council e.g. information about: staff; registrants; students in receipt of DipSW Agency Grants; and, individuals who are referred to in complaints. The question that has to be asked when collecting and holding data is, is it possible from the data to identify a 'data subject' as a person distinct from any other individual? If you are in any doubt about the answer to that question, you should, given the broad nature of the definition of personal data, regard the data as personal data covered by the DPA 1998.

#### **5. What is Data Processing?**

5.1 Processing personal data means obtaining, recording, or holding information or data, or carrying out any operation or set of operations on the information or data, including:

(a) organisation, adaptation or alteration of the information or data;

- (b) retrieval, consultation or use of the information or data;
- (c) disclosure of the information or data by transmission, dissemination or otherwise making available;
- (d) alignment, combination, blocking, erasure or destruction of the information or data.

5.2 Probably all of us have to process personal data at some point as part of our work. As a Data Controller the Council must ensure that all personal data, whether in electronic or paper form, is collected and processed in accordance with the Data Protection Principles laid down in the DPA 1998.

## **6. The Data Protection Principles**

6.1 The DPA 1998 makes it clear that you cannot arbitrarily gather data about individuals or keep general lists of people, and then use the data or the lists for any purpose that comes to mind.

6.2 In general, the law gives every individual the right to have information about her/himself used only for the purposes for which he/she gave the personal data originally.

6.3 Personal data collected must be restricted to the minimum necessary, and used only for the purposes stated at the time of collection. The data should only be kept for as long as it is genuinely needed. Please note the following guidance for retention of information:

6.4 Personal Information relating to payments made or received by the SSSC - 5 years, unless legal proceeding have begun

Personal Information relating to other contracts - 20 years, unless legal proceedings have begun

Personal Information relating to accidents at work - 3 years after termination of service, unless legal proceedings have begun

Other Personal Information on Personnel files - 3 years after termination of service, unless legal proceedings have begun

Personal Information relating to registrants - Indefinitely – but note the separate procedures relating to Disclosure Certificates set out in the Policy on Handling Disclosure Information.

Personal Information relating to persons on the Removed Persons Register - Indefinitely, subject to the provision above.

6.5 Some data is regarded as 'sensitive personal data' and requires the explicit consent of the individual before it can be collected and processed. This includes

data on racial or ethnic origin, political opinions, religious belief, trade union membership, physical and mental health, sexual life, actual or alleged offences and proceedings for any offence committed or alleged to be committed.

6.6 The eight Data Protection Principles that must be observed by staff are set out in the document entitled 'Interim Guidance' issued to all staff and the Council's Data Protection Policy and should be adhered to.

## **7. Data Subjects**

7.1 Data Subject means an individual who is the subject of personal data. The Council holds personal data on many data subjects, for example programme correspondent addresses, mailing lists and Council Members.

7.2 Data subjects have certain rights under the DPA 1998. The rights are:

(i) A right of subject access – to be told by the Data Controller whether personal data about the subject is being processed, and if so what this is, the purposes for which it is being used, and to whom it may be disclosed. A fee may be charged for the provision of information (Please see Schedule attached for procedure for responding to Subject Access Requests).

(ii) A right to prevent processing likely to cause damage or stress.

(iii) A right to prevent processing for the purposes of direct marketing – the communication by whatever means of any advertising or marketing material.

(iv) A right in relation to automated decision-taking – to prevent any significant decisions about the data subject being taken solely on the basis of the automatic processing of personal data.

(v) A right to take action for compensation if the data subject suffers damage by any contravention of the Act by the Data Controller.

(vi) A right to take action to rectify, block, erase or destroy inaccurate data.

(vii) A right to make a request to the Information Commissioner for an assessment to be made as to whether any provision of the DPA 1998 has been contravened.

## **8. Exemptions**

8.1 There are a number of exemptions to the DPA 1998. A wide range of issues are covered, including national security; crime and taxation; health, education and social work; regulatory activity; journalism, literature and art; research, history and statistics; and disclosures required by law.

8.2 However, in general there is a presumption that the provisions of the DPA 1998 should apply. Staff should not assume that an exemption covers any

aspect of personal data processing without seeking further advice from the Legal Adviser.

## **9. Compliance with the DPA 1998**

9.1 Therefore, in order to comply with the DPA we need to:

- obtain people's consent to collecting personal data;
- tell them what we are collecting;
- tell them the purposes for which the data may be used (we are then restricted to using it for these purposes only);
- tell them how to ask for data held on themselves;
- allow them to have a copy of what we hold if requested; and
- allow them to correct the data that is held if it is wrong.

9.2 In practical terms this means that at the point that we ask for personal data we must inform people of their rights under the DPA. The following wording should be used each time personal data is sought:

'Data Protection Act 1998

The Scottish Social Services Council is registered with the Information Commissioner as a Data Controller under the Data Protection Act 1998. We are required to inform you that the personal information that you supply will be used for (insert purposes.....). We may disclose the personal information to (insert details of third party disclosures.....). By signing and submitting this form, you consent to the personal information being processed as outlined above.

The Data Protection Act 1998 allows you to ask for a copy of the personal information that we hold about you. There is a £10 charge to cover the administrative costs of this service. If you would like a copy of the information, please write to the Council at the above address enclosing a cheque or postal order for £10 made payable to the SSSC.'

9.3 In future, please ensure that any requests for personal data include this information and identify as clearly as possible any of the uses to which the data will be put and to whom it will be disclosed. Please consult with your line manager about how to word the information about the purposes for which the data will be used and, if necessary, she or he will consult the Legal Adviser.

9.4 Please ensure that personal data is secure by: keeping your password for access to your electronic files secure; keeping filing cabinets locked and not using or sharing data for any purpose, other than that for which it is first collected.

## **10. All staff are asked to**

(i) Follow this guidance and the Council's Data Protection Policy and make sure you understand the basic principles of the DPA 1998, raising any questions about how it applies to your own work with the Legal Adviser;

(ii) Ensure that if there are any doubts about the use of personal data or whether it should be given to people outside the Council, these questions are raised with the Legal Adviser;

(iii) Remember that Data Subjects have rights to access personal data held about themselves, and if necessary to ask for mistakes to be corrected. All requests for Data Subject Access under the DPA 1998 should be referred to the Legal Adviser, or in her absence the Registrar, in accordance with the procedure set out in the Schedule attached.

### **Data Protection Act 1998 – Responding to Subject Access Requests**

1. Ascertain if the request is a Subject Access Request:

- is the request in writing?
- is the data subject identified?
- is the £10 fee enclosed?

Seek advice from your line manager, if in doubt.

2. Verify that the person making the request is the data subject. Seek advice from your line manager, if in doubt.

3. Immediately pass request to the Legal Adviser, or in her absence the Registrar, who will:

(a) Diarise the deadline for responding – response should be as soon as possible, but no later than 40 days from receipt. (40 days commences as soon as the requirements above are met).

(b) Consider if any statutory exemptions apply – e.g. S31 of DPA 1998, regulatory exemption; requests involving disclosure of third party information.

(c) Consider if information is held in a relevant filing system.

(d) Consider information to be provided, if personal data is being processed:

- description of data held
- purposes for which data held
- classes of sources and recipients

This will require:

- issue of request to relevant section
- imposition of deadline to section for response
- briefing section on what's required

(e) Issue information (where appropriate) setting out:

- whether personal data relating to individual is being processed
- description of the personal data, the purposes for which they are being processed, the recipients to whom the data may be disclosed
- communicate to the data subject the information constituting personal data
- information as to the source of the data
- where relevant, the logic of any automated decision-making

(f) Keep a written note of the measures taken to search records and the rationale for decisions taken.

## ANNEX F

### TEMPLATE FOR REPORTING BREACHES OF THE PRINCIPLES IN THE CODE OF PRACTICE OR PROTOCOLS:

**Definition:** A Breach of one or more provisions within the Code or Protocols occurs in situations where a non-observance of the Code was not approved by the Head of Profession or Chief Statisticians in advance of its happening. An example would be either a deliberate or an inadvertent 'leak' to the press.

**Report submitted by**.....

**Date of initial report**.....

**Reporting Organisation**.....

**Producer Organisation**.....

RELEVANT DOCUMENT....**(Code, Protocol)....Protocol on Release Practices..**

Relevant Principle/Paragraph	
Circumstances of Breach e.g. Date of occurrence, nature of breach, reasons (where known) for breach	
Public/Commission reaction/Impact on reputation (if any)	

Corrective action taken	
Immediate outcome	
Final outcome (e.g. any resulting change in procedure)  N.B. This section may need to be completed later in the cycle	

# **ANNEX G**

## **All Staff SSSC Guidance Document**

**on**

### **United Kingdom Statistics Authority – Code of Practice for Official Statistics (CPOS)**

#### **Introduction**

This document has been produced to guide the practice of the SSSC as it discharges its duties as an approved producer of Official Statistics.

#### Definition of Official Statistics

The Statistics and Registration Service Act 2007 defines devolved official statistics as those statistics produced by Scottish Government and Crown Bodies. There are also powers in the Act for Ministers to define any statistics produced by other bodies (e.g. non-departmental public bodies) as official statistics. Such proposals must be agreed by Parliament.

In line with United Kingdom Statistics Authority (UKSA) guidance, data should be regarded as official statistics if:

- they are used publicly by government in support of major decisions on policy, resource allocation or other topics of public interest, or;
- they attract public controversy when published and public debate would be better informed if the figures were handled as official statistics.

#### SSSC approval

The SSSC was approved as a non-Crown body producer of official statistics on the Social Services Workforce by the Scottish Parliament. The SSSC approval relates solely to the production of the annual workforce data report (and the supplementary data tables made available online).

#### **Code of Practice for Official Statistics**

This section of the paper looks at the expectations of the CPOS in relation to the SSSC's practice. It is not intended as a replacement for the CPOS itself but to complement it by drawing out key implications for the practice of the SSSC.

#### Purpose of CPOS

The UKSA identified the need for public bodies that disseminate statistical information to be perceived as authoritative and trusted and developed the CPOS to set out principles of good practice for statistical products. The Code is the standard against which the UKSA assesses and quality assures statistics.

There are 2 standards to which statistics may be accredited: National Statistics (NS) and Official Statistics. It is mandatory for NS products to conform with the Code, whilst OS products are encouraged to conform with the Code. In addition in Scotland, OS products are required to comply with the Pre-release Access to

Official Statistics (Scotland) Order 2008. The SSSC has produced a separate document on Pre-release Access to ensure that its practice is fully in line with those requirements.

#### CPOS: principles

The Code has eight principles and the key implications of each are now identified in turn.

##### Principle 1: Meeting user needs

The entire statistical process from the identification of needs, to the decision to collect or compile data, through to providing advice to the user should be developed on the basis of the needs of users (e.g. government, public services, business, researchers and the public). This means that the SSSC should engage with users of the data to establish their needs and examine their experiences of using such data (including the timing of publications and the format used).

##### Principle 2: Impartiality and objectivity

The statistics released and the processes used should be impartial and objective. A Revisions policy should be developed and corrections of errors should be communicated timeously to stakeholders. All regular reports should be available free of charge.

##### Principle 3: Integrity

At all stages of the statistical process public interest should prevail over all other interests (including, political, organisational and personal). Statistical reports should be published separately from other comments about the figures. Those producing the figures should be free from any political pressures regarding the production or presentation of the data.

##### Principle 4: Sound methods and assured quality

The methods used should follow best practice and be fully documented with users being informed of the quality of outputs. Quality assurance procedures should be adopted and quality guidelines published which staff are trained to Promote comparability of data standards, classifications, questions etc.

##### Principle 5: Confidentiality

Private information about individuals or companies should be treated confidentially and used only for statistical purposes. The identities of private individuals and organisations, or private information about them, should not be revealed. Such data should be kept securely and information on such arrangements made available to respondents. The sharing of such data should only be for statistical purposes and should be covered by written confidentiality agreements.

##### Principle 6: Proportionate burden

The burden of supplying data should be proportionate to the benefits of the data provided and look to reduce costs over time. Encourage participation by informed consent rather than by use of statutory powers.

#### Principle 7: Resources

The resources deployed to undertake OS work should be sufficient to meet the standards set out in the CPOS. This includes the employment of appropriately skilled staff, computing resources etc.

#### Principle 8: Frankness and accessibility

Provide a commentary on statistics which is full, frank and assists understanding. Addressing issues of quality, reliability and providing factual information on the context. Visualisation techniques should be adopted that enhance understanding. Statistics should be disseminated in formats that meet users' needs and at a level of detail that is both reliable and practicable and accessible to a wide range of audiences.

#### CPOS: protocols

The Code's three protocols draw together in more detail sets of practices touched on in the principles which should underpin; User engagement (Protocol 1); Release practices (Protocol 2); and the use of administrative sources for statistical purposes (Protocol 3).

### **Conclusion**

Specialist staff are responsible for the issue of Official Statistics and they are aware of the duties and responsibilities on the SSSC as an official statistics provider. Part of their responsibility is to ensure all staff awareness of SSSC obligations to comply with the following:

- a) SSSC Data Protection Policy
- b) SSSC Freedom of Information Guidance
- c) SSSC Official Statistics Protocol

Therefore the aim of this guidance is to make all staff aware of SSSC responsibilities and their individual responsibility to contribute to compliance.