

Report of: Information Governance Office

Report to: The Director of Children's Services

Date: 26/06/15

Subject: Families First NIS data submission for DCLG



Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

In the spending round 2013, the Government announced a 5 year extension of the troubled families programme (known as families first Leeds - FFL) to reach up to 400,000 extra families from 2015-16 - investing an extra £200 million in the first year. In Leeds we have agreed to support 7,000 families over the life of the programme and 2,300 families in the first year - Sept 2014-March 2016.

As part of the expanded programme FFL are required to submit data to support a national evaluation and a national impact study which will be managed by the DCLG. This requires the FFL to send data on both FFL families but also on a comparative group of families who have not been supported in the programme. The comparison group has not been fully agreed, however it is felt that FFL will provide data relating to CIN or CAF families.

Our current information sharing arrangements do not include this new data sharing and no families have been informed that their data will be shared with the DCLG.

Recommendations

The Director of Children's Services is asked to approve the sharing of information with the DCLG for families who are signed up to the families first programme and also for families who we deem to be in a comparison group to enable the DCLG to provide FFL with robust evidence on the impact of the programme.

1 Purpose of this report

- 1.1 The purpose of this report is to inform the director of children's services of the information governance issues in relation to the expanded troubled families programme.

2 Background information

- 2.1 As part of the government's implementation of the troubled families programme, FFL has undertaken to identify all families in Leeds who meet the national requirements for classification as a 'troubled family'. These criteria include:

National prescribed data:

- Crime/ Anti-Social Behaviour - Under 18 year olds with proven offence; ASB perpetrators/ interventions recorded
- Education/ Training - School exclusions; Children in PRU or alternative provision due to exclusions; Children not on school roll
- Benefits/ Work - Adult on DWP out of work benefits (Employment & Support Allowance, Incapacity Benefits, Carer's Allowance, Income Support and/or Jobseekers, Severe Disablement List)

Agreed local discretionary data:

- Crime/ Anti-Social Behaviour - Prolific and Priority Offenders /Deter Young Offenders;
- Education/ Training - NEET's list; Persistent absentees from school (annual)
- Safeguarding/ Health - Recorded domestic violence offences ~ victims and/or locations; Families with child on a Child Protection Plan; Child victims of serious or sexual violence; Offenders arrested testing positive for substance misuse

In order to comply with the aims of the national troubled families programme and its payment-by-results model, agencies and services need to be able to work with the identified families and offer support to enable them to 'turn around' their circumstances.

Leeds has developed the FFL scheme through building on our existing local cluster arrangements and partner relationships. The programme brings together agencies which are already working in communities, to ensure that their work is focused on improving outcomes for the whole family. The approach is restorative, working with rather than 'to' or 'for' families, and offering high support and high challenge to help families address multiple and complex problems.

- 2.2 Leeds has successfully delivered the first programme which ended in May 2015 and achieved 100% PbR. The 5 year extension of the troubled families programme will enable Leeds to reach to reach up to 7000 families from 2015-16 – investing an extra £12 million in to the city. This builds on the success of the current programme by focusing on families with a broader range of problems: including families who are:
- Adults out of work or at risk of financial exclusion or young people at risk of worklessness
 - Children who need help: children of all ages, who need help, are identified as in need or are subject to a Child Protection Plan
 - Parents or children involved in crime or anti-social behaviour
 - Children who have not been attending school regularly
 - Families affected by domestic violence and abuse.

- 2.3 It is important to evidence how we're continuing to transform the lives of families that are of greatest concern and highest cost and how we're reforming and improving the effectiveness of the services that work with them. We'll also need to evidence how the services we're investing in are successful and deliver interventions which are proven to be effective. This is compliant with our value to spend money wisely.

The DCLG will provide robust information on the impact of the programme which is crucial to understanding families in all their complexity, measuring success, engaging partners, designing services, sustaining and driving service transformation and making the case for continued investment (particularly in the context of reduced budgets). The new programme has an increased focus on service transformation.

3 Main issues

- 3.4 The DCLG have requested that all LA's are part of a national impact study (NIS) which requires FFL to provide personal and sensitive personal data (as described in the Data Protection Act) to a third party provider, who are acting on behalf of the DCLG. This data relates not only to all families on the FFL programme but also for families who are classified as 'comparison families'. The comparison dataset are families who have not been targeted for inclusion into the programme. The exact dataset has not been agreed but it is felt that this will be either CIN or CAF families.

- 3.4.1 NIS will provide a quantitative assessment of the impact of the local delivery of the programme, by matching personal data on individuals in troubled families against national administrative datasets held by government departments and bodies. Information about the outcome changes in families who are supported as part of the programme will be compared with information about the comparison group of families with similar problems. The sharing of information with the NIS will be for evaluation purposes only and will not be used for any other purpose, such as operational matters.

- 3.4.2 Families who are part of the FFL programme have not been informed of the new sharing of information to support the NIS and neither have the 'comparison families'. Therefore there are information governance risks relating to this sharing. The legal considerations are provided below in point 4.

4 Corporate considerations

4.1 Consultation and engagement

- 4.1.2 Consultation has not been undertaken with families. However this process will not be intrusive and there will be no direct contact or outcome for any individual family. An information sharing agreement has been drafted and will be agreed to by both the DCLG and children's services. The data shared will be pseudo-anonymised and the various government departments concerned will not be gathering any further information.

4.2 Equality and diversity, cohesion and integration

- 4.2.1 Please see the response to 4.1.

4.3 Council policies and the best council plan

4.3.1 The provision of the data to the DCLG is not voluntary and is a condition not only to the participation with the programme but also to the funding, which is £12 mil over 5 years. However the DCLG will provide Leeds with robust information on the impact of the programme and the effectiveness of various interventions. This is crucial to understanding families and ensuring we deliver the best possible services to improve outcomes. This is compliant with our ambition to spend money wisely but also to be child friendly Leeds.

4.4 **Resources and value for money**

4.4.1 Whilst the provision of the data does not provide any immediate savings, it is felt that over time the information provided to FFL which will enable the programme to target specific interventions which have a proven history of success. In addition the programme will be able to remove services which are not providing a successful outcome or are not cost-effective. Over the 5 year programme it is felt that the benefit analysis provided by the DCLG will drive service transformation and therefore will deliver on value for money.

4.5 **Legal implications, access to information and call-in**

4.5.1 Under the 1st data protection principle, personal data must be processed fairly and lawfully and in particular must not be processed unless at least one Schedule 2 condition is met, and in the case of sensitive personal data unless at least one Schedule 3 condition is also met. In this particular case, it is considered that condition 5(b) of Schedule 2, and condition 7(1)(b) applies in that this processing is necessary for the exercise of certain statutory functions conferred on the Council. The particular statutory functions are the general power of competence under section 1 of the Localism Act 2011 and powers under section 111 of the Local Government Act 1972. These functions are respectively, the power to do anything individuals generally may do (subject to the limitations set out in the Localism Act 2011), and the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of the functions of the Council. In addition the Council will share data in order to comply with the requirements of the Children Act 2004, in particular section 10, duty to co-operate. This places a duty on the Council to make arrangements to promote co-operation with DCLG and those public bodies holding National Administrative Data, being persons or bodies who exercise functions or are engaged in activities in relation to children in the Council's area, to improve the well-being of children in the Council's area including by sharing information appropriately. It is also considered that this processing by the Council is also necessary for the exercise of functions of a government department, namely DCLG, within the meaning of condition 5(c) of Schedule 2, and condition 7(1)(c) of Schedule 3 to the Data Protection Act 1998.

4.5.2 There is no definition of "fairness" in the 1998 Act, however the Courts have decided that assessing fairness involves a balancing of the interests of the data subject in non-disclosure against the public interest in disclosure. In a similar way, the Courts have said that the word "necessary" as used in the Schedules to the 1998 Act carries with it the connotations of the European Convention on Human Rights, and that those include the proposition that a pressing social need is involved, and that the measure employed is proportionate to the legitimate aim being pursued. Therefore, in order to assess whether processing the data in this way will meet the overall requirement of "fairness", and whether this processing is "necessary" for the purposes of the Schedule 2 and 3 conditions mentioned above, the interests of the data subjects concerned need to be balanced against the public interest reasons for disclosing this data to the DCLG. Plainly, there is a strong public interest in a thorough evaluation of the programme, to determine whether it

is sufficiently effective in intervening with families with multiple problems to justify its continuation at a time of scarce public resources. There is clearly also a strong public interest in the Council properly discharging its duty under section 10 of the 2004 Act, by having robust and effective arrangements with the DCLG and the other government bodies holding national administrative data. Conversely, in relation to prejudice to the rights of data subjects, these arrangements will not lead to any direct contact with any of the individuals concerned, nor will the evaluation of the programme result in any decision which will affect any of those individuals. In addition, whilst the personal data supplied by the Council will be matched against data from the national administrative datasets, none of the data supplied will be retained in those datasets. In effect therefore, the only prejudice to data subjects is the fact that their data will be handled by a larger audience of public servants than would otherwise be the case, and the risk of a data breach during transmission of the data. However, the proposed data sharing agreement with the DCLG makes provision for secure transmission and reception of the data, and for access to the data by only a limited number of analysts assigned to the evaluation. On balance therefore, and given that the data sharing agreement seeks to minimise the level of intrusion to the data subjects concerned, it is considered there is a pressing social interest in disclosing this data to the DCLG for these purposes, and that the proposed disclosure is necessary and proportionate. In addition, for the purposes of the privacy rights recognised in Article 8 of the European Convention on Human Rights, it is considered that the countervailing public interests in Article 8.2, in particular the protection of the rights and freedoms of others, outweigh the rights of the individuals concerned, in these particular circumstances. In relation to the 2nd data protection principle, as regards the families who are supported as part of the programme, given that the data supplied will be used solely for the evaluation of the programme, it is considered that this processing will not be “incompatible” with the specified purposes for which the data was originally obtained. [comparator families – similar purposes for CIN families?]

- 4.5.3 In addition, for the purposes of the 1st principle, data are not deemed to be processed “fairly” unless certain information is provided to the data subject, including the purpose or purposes for which the data are intended to be processed. Therefore, the families must be provided with the relevant and necessary information to ensure they fully understand what is being done with their data and why.

For all families joining the FF programme a privacy notice has been developed and will be provided to inform of the sharing with various government departments. Similarly families who may be included in the comparison groups will be provided with the same information.

For families currently signed up to the FFL programme and the comparison group, a poster is being developed which will be posted across the city, in areas such as children’s centres and cluster sites, to inform families of this data sharing and will also be published onto the website. This will address our fair processing requirements, however it is worth noting that some families may not see this information and therefore there is a risk of complaint.

- 4.5.4 This decision is a significant operational decision and therefore is not open to call-in.

4.6 **Risk management**

- 4.6.1 The information governance risks revolve around our Data Protection ‘fairness’ obligations. Families must be told what we are doing with their data and why we are sharing this. It is not practical to contact each family member, or to seek consent from each family member, due to the significant numbers involved in the

programme and therefore we run the risk of complaints submitted to the Information Commissioner's Office, who regulate the Data Protection Act. In relation to future data sharing for these purposes however it is felt that this risk may be reduced once the new Employment and Welfare Bill is approved. This may enshrine our obligation to share this information in statute and will lessen the information governance risks.

5 Conclusions

- 5.1 The sharing of the information for the DCLG NIS programme is not voluntary and the funding of the FFL programme is reliant on the provision of the data. Nevertheless, the disclosure of personal data for these purposes remains subject to the requirements of the Data Protection Act and the Human Rights Act in the usual way. However, for the reasons set out above, it is considered that on balance, the data sharing proposed is compliant.

6 Recommendations

- 6.1 The Director of Children's Services is asked to approve the sharing of information with the DCLG for families who are signed up to the families first programme and also for families who we deem to be in a comparison group to enable the DCLG to provide FFL with robust evidence on the impact of the programme.

7 Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.