

| | | | |
|----------------------------------------------------------------|----------------|------------------------------------|--|
| REPORT TO: | | Cabinet | |
| DATE: | | 09 June 2021 | |
| PORTFOLIO: | | Cllr Joyce Plummer - Resources | |
| REPORT AUTHOR: | | Stuart Sambrook (Policy Manager) | |
| TITLE OF REPORT: | | Council Tax Data Sharing Agreement | |
| EXEMPT REPORT (Local Government Act 1972, Schedule 12A) | Options | Not applicable | |
| KEY DECISION: | Options | If yes, date of publication: | |

1. **Purpose of Report**

- 1.1 To inform Cabinet that the Council has been asked to enter into a DSA (Data Sharing Agreement) with the ONS (Office for National Statistics) for the purpose of sharing Council Tax data to ensure the Council supports ONS to deliver an accurate population count in the latest Census 21 and future ONS general statistical returns.

2. **Recommendations**

2.1

That the Council enter into a data sharing agreement with the ONS (Office for National Statistics) to share Council Tax data as outlined in the attached report for the purpose of:

- (a) assisting the ONS to delivering an accurate Census 2021 for Hyndburn; and
- (b) setting a framework for the ongoing monthly supply of council tax data to the ONS to improve the quality and accuracy of ONS general statistical data and the locally stratified data relating to the Borough and its population

3. **Reasons for Recommendations and Background**

- 3.1 Every decade the Office for National Statistics (ONS) carries out a national Census and work with local authorities to deliver a successful campaign encouraging the local community to participate to help plan for future needs ensuring the big decisions facing the country is based on the best information possible.
- 3.2 The Census is a way the country can help plan its way out of a pandemic and help underpin economic benefits by providing accurate low lying data which is used in many aspects of lives e.g., statistics to support decision making, to steer policy, allocating resources, funding bids, education and planning services. So it's beneficial that each

area gets as many households to complete the survey to provide an accurate picture and representation of their local area.

- 3.3 The Council has been asked to share its Council Tax data on a monthly basis with the ONS (Office for National Statistics) to help improve the accuracy and quality of the Census both locally and nationally by entering into a Data Sharing Agreement with the ONS. The ONS have also asked the Council to continue to share council tax data with it on an ongoing monthly basis once the work on the Census has concluded.
- 3.4 The DSA contains a list of variables that will need to be extracted from the Council's Revenue and Benefit System which will include information such as name, address, council tax band, amount paid, reduction, amount liable, disability reduction, exemption type, and empty or second home supplied to ONS on a monthly basis using extraction software called Movelt. This will be managed on the authority's behalf, unless the Council agree to use a different software with ONS. Then the Council Tax Data will be stored securely in ONS's Data Access Platform (DAP) and will be de-identified at the earliest possible point by business areas who will use it.
- 3.5 Council Tax data will be key to quality assuring Census data. Moreover, in the longer-term Council Tax data will be used to help ONS contribute towards statistics across many areas such as socio-economic indicators, housing stock, social mobility and so on. This will also enable ONS to produce timely, locally stratified data for councils across the country.
- 3.6 ONS will only use the data provided to produce anonymised statistics. There will be no direct impact at all on individual members of the public from the use of this data. Record level data will be used for data linkage, but this will be done by algorithms so personal data will not be seen by ONS researchers and statisticians, further minimising any risk to individuals.
- 3.7 Council Tax data will help support ONS produce regular government statistical releases to inform policy-making decisions, provide mid-year population estimates, helps to monitor the economy and is a primary measure of inflation. The data are also used by businesses, universities, the media and the public to monitor the government's performance and gain a better understanding of the UK economy. At local authority level it helps the Council understand housing need, future housing growth and many more vital indicators involved in the whole decision making process and steering future policy.
- 3.8 The reasons ONS require Council Tax data is because Personal Identifiable Information is required to enable ONS to link to other administrative data sources, which will allow the ONS to produce statistics beyond what is possible using Council Tax data in isolation. Names, for example, are one of the most important linkage variables that we use to ensure that we can have a high degree of confidence in the match, something that cannot be achieved without using people's names.
- 3.9 By linking datasets rather than treating them individually analysts can draw insights from across the data, which helps ONS find new patterns that otherwise might not be seen. The matching and linking is carried out by algorithms which means the names

aren't actually seen by ONS statisticians or researchers using the data, they get an aggregate or anonymised output.

- 3.10 The ICO (Information Commissioner's Office) states that Data Sharing Agreements are not intended to be legally enforceable – 'drafting and adhering to an agreement does not in itself provide you with any form of legal indemnity from action under the data protection legislation or other law.' It is however something that the ICO will take into account should either party make a complaint.
- 3.11 Data Sharing Agreements are created to provide clarification and understanding to what data is being shared, for what purpose and whether there is a lawful basis for doing so. It addresses legal concerns but it does not enforce them.
- 3.12 The DSA is simply a memorandum of understanding with agreed steps for both parties to take. Once the Council data is passed to ONS they are responsible for the data. If there is ever a data breach (which in 220 years has yet to happen) or ONS breaks GDPR guidelines, then the ICO would hold ONS to account. So as regards to that there is a legal enforcement route, albeit not between ONS and Hyndburn. From the information supplied by the ONS, the ONS appear to have appropriate data security measures in place.
- 3.13 The DSA is not specific to the Census and they will continue to collect data after the Census has been completed.
- 3.14 To date Council Tax data is already being submitted to the ONS on this basis and for these purposes by 313 councils.

4. Alternative Options considered and Reasons for Rejection

- 4.1 If the Council does not agree to share the data there is a possibility of implications on the Local Authority being served with a notice.

Under s45C SRSA 2007, the UK Statistics Authority has the power to issue a Notice on public authorities (in this instance Local Authorities (LA)) requiring them by law to share the information ONS are requesting in order to exercise our statistical functions. This differs to the current request for information under s45A SRSA, which allows the LA to exercise their own discretion as to whether or not to share the information.

- 4.2 At present, data requested without mandation allows for a degree of negotiation on the terms of data sharing and comes with the added benefit of flexibility around submission dates. However, voluntary agreement is also suggested to avoid the risk of criminal liability for the Council and its staff which may arise if provision of the data is mandated.
- 4.3 Failure to comply with a Notice once it has been served constitutes a criminal offence, such offence will have been committed not only by the local authority, but also by any officer of that local authority with responsibility for the breach (see sections 45F(4) and 45F(5)). Such an offence may or may not be prosecuted by the Crown Prosecution Service depending on the circumstances.

5. **Consultations**

5.1 None

6. **Implications**

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Financial implications (including any future financial commitments for the Council) | None identified |
| Legal and human rights implications | <p>The Council has a legal power to share the requested data with the ONS under the terms of GDPR / Data Protection Act 2018, so the data sharing proposed is lawful under sections 7 – 11 Data Protection Act 2018. In particular, there is power to share data in the performance of a task in the public interest where necessary for the performance of a function of the Crown or a Government Department and there is power to share special category personal data for purposes related to archiving, research and statistics.</p> <p>The agreement is not legally enforceable and the ONS do not offer any warranties to the Council. If a data breach were to occur this would be a matter for the Information Commissioner to deal with and to take enforcement action if required.</p> |
| Assessment of risk | <p>There is a risk that customers will not wish their data to be shared with the ONS. The data sharing is lawful and does not need their consent, but some may see this as an infringement of privacy. The steps taken to avoid privacy breaches are set out in section 3.</p> <p>There is a risk of a data protection breach by the ONS. Legally this would be the responsibility of the ONS, although local people could be adversely impacted if such a breach were to occur, especially on a large scale.</p> |
| Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as</i> | A Customer First Analysis has been completed – Appendix 1. |

| | |
|-----------------------------------|--|
| <i>an appendix to the report.</i> | |
|-----------------------------------|--|

**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

- 7.1 *Copies of documents included in this list must be open to inspection and, in the case of reports to Cabinet, must be published on the website.*

If the report is public, insert the following paragraph. If the report is exempt, contact Member Services for advice.

8. Freedom of Information

- 8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.