

# NHS Digital Statement of Compliance with the Pre-Release Access to Official Statistics Order 2008

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## Introduction

This statement is published in conformance with the Pre-release Access to Official Statistics Order 2008 which was approved by Parliament under Section 11 of the Statistics and Registration Service Act 2007 and which came into effect on December 1<sup>st</sup> 2008.

It sets out the Health and Social Care Information Centre (HSCIC) operational arrangements for giving Ministers and other senior accountable persons, and their briefing officials, pre-release access to official statistics once they are in 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 comment immediately on the implications of statistics covering policy areas for which they are democratically responsible (or other eligible person as described in section 2 of the Order).

## Exclusion

Different arrangements apply to Ministers' and officials' access to administrative and management data where those data subsequently form the basis for published official statistics. These arrangements follow the National Statistician's [guidance](#) on the use of Administrative or management information and details can be found using the links below:

<http://content.digital.nhs.uk/article/1789/Statement-of-administrative-sources>

<http://content.digital.nhs.uk/pubs/listadminsources>

## Authority

These arrangements have been drawn up by the NHS Digital Head of Profession for Statistics, who is also responsible for their day to day implementation.

Pre-release access to NHS Digital Official Statistics may only be granted by the NHS Digital Head of Profession for Statistics (or their designated deputy).

## General Principle

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

Limited to the minimum number of persons deemed necessary by the NHS Digital Head of Profession for Statistics (or their designated deputy) to allow the Minister (or other eligible person as described in section 2 of the Order) to either:

Provide responses to questions, or make statements about those statistics at, or shortly after, their time in publication;

Take action just before, at, or shortly after the time of publication;

Allowed in those circumstances where, in the opinion of the NHS Digital Head of Profession for statistics (or designated deputy), the public benefit likely to result from such access outweighs the detriment to public trust in official statistics likely to result from so doing.

## Grant of advanced access

The arrangements set out in this statement are confined to the minimum number of those persons who meet the eligibility criteria set out in Annex A(i) attached. Recipients can, in addition, share their access with their immediate administrative support staff even through 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 A(ii) attached, and which are in their final form prior to being published for the first time,

## Documentation and Publication

In the interests of openness and transparency, NHS Digital maintains a [public record](#) on its website listing the titles of all the statistical release series to which these arrangements apply, as well as the job titles of all those persons to whom pre-release access has been granted, and the organisations to which they belong.

The complete list of published official statistics publications can be viewed via the NHS Digital [publications calendar](#). Clicking on the title of a publication will take the user to the release page, on which a list of persons to whom advanced access to that publication is provided. The justification for granting advanced access to each listed recipient is available on request.

## Period of advanced access provision

In line with the legislation, pre-release access to the organisation's official statistics is restricted to a maximum of 24 hours before their public release on the following day (usually at 09:30).

In exceptional circumstances only, and in accordance with Section 5 of the Pre-release Access to Official Statistics Order 2008, the Head of Profession for Statistics may grant pre-release access in excess of 24 hours. They will only do this if, in their opinion, the public benefit outweighs the detriment to public trust which is likely to result from such extended access. When this happens, the Head of Profession will publish on their organisation's website their reasons for granting extended access, and will also inform the UK Statistics Authority's Chief Executive – the National Statistician.

## Conditions of access

Those persons who are granted access to NHS Digital official statistics ahead of release must keep the statistics secure and under embargo, and they must abide by the following 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 magnitude 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.

## Special circumstances

Aside from the circumstances described above, the Head of Profession may also allow access to statistics in their final form ahead of their public release to a limited number of persons in a limited number of special circumstances, sometimes for more than 24 hours. In each case, such access will be documented in the relevant release. For example:

Access may be granted to the compilers of complementary reports due to be published at the same time as, or shortly after the statistics so that they can incorporate the latest available figures. Such access may be longer than 24 hours;

International organisations may be granted access in order to compile supra-national statistics;

Journalists may be given access to complex or compendia releases but this access will never exceed 24 hours and will only be if it is of the opinion of the NHS Digital Head of Profession for Statistics that such access— (a) is necessary for bona fide representatives of news gathering or news reporting organisations to understand the statistic and, where relevant, a statistical publication which includes that statistic, and (b) is likely to facilitate well-informed debate and (c) the public benefit likely to result from such access outweighs the detriment to public trust in official statistics likely to result from such access;

In exceptional circumstances, pre-release access may be extended to someone who is not an 'eligible person' as defined in the Order. In such a case the UK Statistics Authority would be informed and the reason for the exceptional access would be published.

## Breach of conditions of release

In the event NHS Digital becomes aware that a lapse in release practises for any of their designated official statistics has led to a substantive breach of the principles and rules set out in the legislation and described in this Statement, the Head of Profession for Statistics will notify the UK Statistics Authority's Chief Executive (the National Statistician); investigate the nature and extent of the breach; take action to prevent a recurrence; and provide the National Statistician with a written explanation using the Authority's standard reporting form. The National Statistician may decide to conduct an inquiry on behalf of the Authority, the results of which will be published on the [Authority's website](#). Breaches will always be reported where one of the following applies:

Statistics are not made equally available to all (Principle 2, practice 3);

Statements or comments based on prior knowledge of the statistics are published ahead of the publication of the statistics (Principle 3, practice 1);

The professional independence of statisticians is challenged (Principle 3, practices 2 to 4);

Unpublished information is used for personal gain (Principle 3, practice 6);

Confidential (disclosive) information is inadvertently / inappropriately made available outside the producer body (Principle 5, practices 1, 2, 5, 6);

Statistical reports have been released contrary to Protocol 2 of the Code, including where the content of a statistical report has been made public or available to anyone not essential for statistical production that are not on the relevant approved pre-release access list (Protocol 2).

## Sanctions against non-compliance

The NHS Digital Head of Profession for Statistics may, for a period, withdraw pre-release access from any person judged to have breached the conditions of their access.

14. 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 to a National Statistic is not justified or where an organisation is failing to conform to these arrangements. It can also withdraw, or consider withdrawing, 'National Statistics' designation from the statistics in question.

15. In the event of any such challenge or withdrawal the Head of Profession will publish the HSCIC response or reaction on its website along with its plans for achieving conformance.

## Annex A

### Criteria for granting pre-release access

- 1) Categories of persons within government to whom NHS Digital 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;

Those Chief Executives or a Director acting on their behalf who have operational responsibility for a particular activity covered by a release, and who are accountable for their stewardship of that activity to Ministers, and through them to Parliament; and who are in a similar position to those Ministers described above;

The Departmental or Agency officials with ultimate responsibility for formulating, developing, maintaining, monitoring or implementing that policy;

Other Departmental or Agency officials who have been assigned the specific responsibility to brief Ministers or Chief Executives about the statistics in question (e.g. Special Advisors, Policy Advisers, Analysts);

Departmental Press Officers responsible for managing Ministers' interface with the media with respect to the policy or statistics in question.

(Plus any immediate ancillary staff who support the above).

- 2) Categories of statistical releases to which NHS Digital would normally grant pre-release access:

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 inform, or impact upon, decisions about the allocation of public funds;

Release which have the potential to inform, or impact upon, 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 online 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 (e.g. social trends; regional trends, etc. which often include data that have 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 B

### Definitional notes

#### (a) 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 engaged in the process of producing and disseminating the statistics in question (including those responsible for overseeing this process);

Those persons requested by producers of statistics to quality assure their statistics before their public release.

However, the restrictions listed under 'Conditions of Access' above do apply to this pre-release access.

#### (a) Heads of Profession for Statistics

Organisations which employ a large number of official statisticians, or produce a large number of official statistics will normally appoint a Head of Profession for Statistics in consultation with the National Statistician. As well as being accountable to their own Minister / CEO and departmental line managers, Heads of Profession for Statistics are responsible to the National Statistician for the professional integrity of the statisticians whom they manage, and for the quality of the statistics that those statisticians produce. In particular they are responsible for observing the UK Statistics Authority's [Code of Practice for Official Statistics](#) as well as any professional standards set by the National Statistician.