

To: Prime Minister
From: medConfidential

Dear Prime Minister,

Welcome to a renewed Office.

You now govern with the infrastructures you have, not those you wish you had. The choices of your recent predecessors have created consequences for you, and a recent predecessor's attention to detail has likely also created some political liabilities.

Recommendation

Data policy for government itself rests with the Government Digital Service in Cabinet Office; data policy for the wider economy rests with DCMS. Given this, the Ministry of Justice should become (again) the Departmental sponsor of the quasi-judicial regulator which ensures data use is compliant with the law.

As an early act to publicly recognise the primacy of the rule of law, and to underline the importance of lawful data use both in the UK and internationally, **you should signal intentions with a Machinery of Government change to move responsibility for the Information Commissioner's Office back to the Ministry of Justice** – as a precursor to any further updates to the Data Protection Act and the ICO.

Much as your predecessor moved responsibility for government data from DCMS back to GDS, replicating a similar move for the ICO would be a clear and unequivocal statement of values as you implement your plan for Government: "We believe the law matters".

[\[Longer reasoning\]](#).

Decision: yes

Background: Data, and what you won't know

*In a world in which what is measured matters, it matters who sets the targets that are measured against.*¹

Those running the data for Test and Trace, or PPE, or the death and testing figures, or Tiers 1/2/3 in July were for the most part doing what was right and necessary, locally-speaking – this was just catastrophically wrong overall. This is why the 'monster factory'² persists.

Data and algorithms may indeed be helpful, but they are not sufficient – as has been amply demonstrated by the 'Centre for Data Ethics and Innovation', which gives advice to your Departments on algorithms,³ and is headed by a man whose choices triggered both the recent A-Levels crisis and mid-Staffs.

¹ <https://rachelcoldicutt.medium.com/policy-briefing-note-for-the-uk-national-data-strategy-3e7a17f0c55e>

² <https://medconfidential.org/wp-content/uploads/2020/09/2020-09-08-Decoding-DWPs-Monster-Factory.pdf>

³ https://twitter.com/cori_crider/status/1314245228757430272

Departments will continue to do what's in their own interest, CDEI will sign off on this as it does, and things will blow up in your face regularly – and all the while, political accountability will remain with the Government.

There would be a 'first mover advantage' for Departments to tell citizens how data about them is used, as laggards are likely to be seen as hiding something. However, Departments are incentivised to slow this, 'as a favour to their friends', on the self-interested basis that each has no confidence that they are not the one running the most toxic project in Whitehall. (We note there are models for reform of CDEI within both the Ministry of Justice and the NHS.)

Returning responsibility for data to Cabinet Office was a positive move, and fixed the mistake of moving it away in the first place – but relying on 'data science' in Number 10 will not save you, because the questions you know to ask will be determined by the data you have, and the data you're given will limit what questions you can answer. Just like every other institution, Number 10 doesn't know what it doesn't know.

Number 10 is just another Department, albeit with a much higher political profile and far less staying power. DWP believes DWP will remain as is, long after you are gone – but that culture creates great costs for the public purse. Many inside (and outside) Government will come bearing policy gifts, just as a proud cat brings you a slightly dripping bird. The question, "What if you are wrong?" is always entirely wise.

Much data use across Government is similarly irrational, except where there may be gains to government itself.⁴ This was the common choice of the Cameron and May administrations, which the first Johnson administration has showed signs of adapting, but thus far found no way to overcome the official gains from doing so. Departments know they are required to monitor and reduce their inequalities and racism, but even those who have a roadmap to addressing it⁵ are failing to do so.⁶

Your vision requires implementation

Public trust and confidence in data is undermined by mistakes that occur over decades.

The flagship reform of Obama's Presidency nearly came undone because the tech didn't work; even though Obama kept pointing out that it had to. Foresight didn't fix it; engineering and process integrity did – coming from outside the system, keeping internal actors honest when they had other priorities. Departments will most often, and often as a first response, give you superficial answers that are in their own interests.⁷

The initial misstep by the Data Standards Authority around the publication of NHS direct care APIs is an example of that failure in the UK government in [recent months](#) – a failure that they didn't understand at first (and at time of publication, still don't).

⁴ <https://pt2.works/blog/2020/04/02/universal-credit-report/>

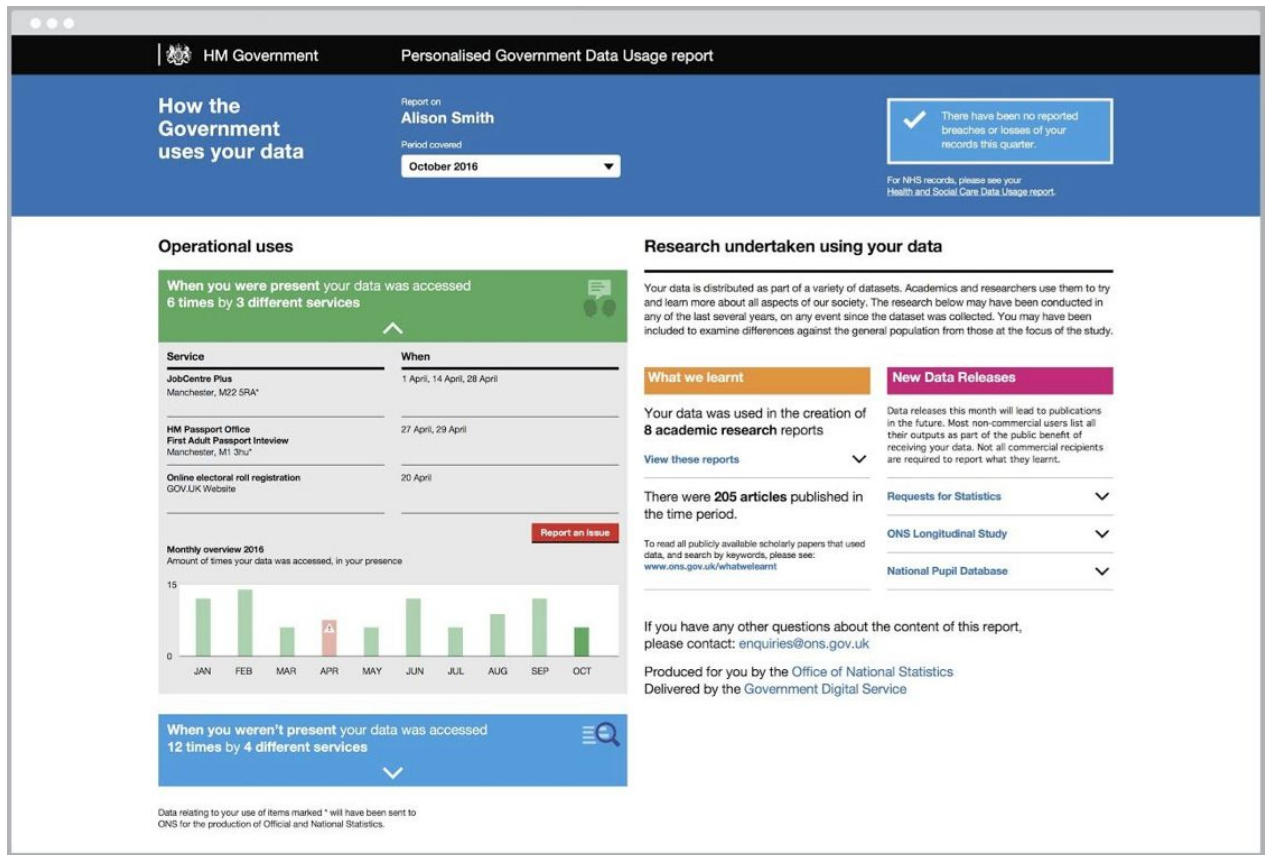
⁵ <https://www.thelegaleducationfoundation.org/articles/the-legal-education-foundation-is-today-publishing-a-blueprint-for-digital-justice>

⁶ <https://www.gov.uk/government/news/hmcts-publishes-response-to-report-on-use-of-data>

⁷ Annex 5 <https://medconfidential.org/2020/universal-credit/>

If simple targets tend to generate complex behaviour, and complex targets⁸ tend to generate stupid behaviour, then how you build digital public services will almost always affect the relation between the citizen and the state. Universal Credit has until now retained⁹ all of the benefits of digitisation for the State, while placing the burdens onto the citizen.

The balance you choose¹⁰ can be on the spectrum:



⁸ <https://www.legislation.gov.uk/ukpga/2011/21/section/22/enacted>

⁹ <https://pt2.works/blog/2020/04/02/universal-credit-report/>

¹⁰ Full-sized image here: https://medconfidential.org/wp-content/uploads/2015/12/GDUR_web.jpg