

LEDS and HOB Open Space:

Open Space – the future v1.0

26 February 2019

Discussion Document

This Document has been written to stimulate discussion on the governance for LEDS and HOB. It is not a statement of Home Office policy or intention. It is to be circulated to and viewed only by members of the LEDS and HOB Open Space.

Introduction

1. The Home Office wants to build upon the start of the Open Space and establish a new way of engaging with Civil Society in relation to Home Office Policing and law enforcement programmes. This paper sets out key points which form part of the Home Office's vision for that engagement and invites Open Space members to consider:
 - Whether this is a concept that will deliver value for all parties,
 - Whether this is something members individually would like to be part of and;
 - What changes would be worth considering.
2. This paper draws on the engagement to date in the Open Space since the first meeting in 2018.
3. **We have heard...**
 - i. Members wanted more strategic conversations covering a greater range of programmes whilst still having the ability to reach into specific issues. What started out as a desire to ensure that we had a greater range of inputs into the LEDDS (Law Enforcement Data Service) privacy impact assessments, developed into a request to explore the programme more widely. To do so Members made clear that we needed to have broader conversations covering different programmes. In the last meeting we introduced HOB (Home Office Biometrics). This has expanded the scope of discussions. Where it makes sense the Home Office in consultation with Open Space Members will seek to expand the scope of topics under discussion.
 - ii. That custody images are a significant concern for some members of the Open Space. The issue of the retention of custody images of those found not guilty has been the subject of frequent discussion. The latest position paper on custody images hopefully demonstrates that we have taken these concerns on board and substantive changes to our approach will follow.
 - iii. That changes needed to be made to the aims of the Code of Practice (Code). The Code needed to focus more on accountability and explicit references to Human Rights were needed. Other changes such as including whistleblowing guidance and a public consultation on the Code will also be included in future work around this area. The drafting of the Code has started and will be discussed at the May Open Space workshop.
 - iv. We need to better ensure fairness relation to Evidence. We need to ensure defence (and prosecution) understanding of data being presented, particularly in relation to best evidence. We will summarise our thoughts in this area for those Open Space members that have concerns around evidential presentation.

- v. The investigation, prosecution and rehabilitation of harassment and stalking offenders is hampered by not having the appropriate information recorded and available for subsequent incidents or for probation officials. We will work with those interested Open Space members to build the appropriate pathways for recording information, whilst bearing in mind the alternate concern about data minimisation and rights to be forgotten.
- vi. The retention of older records and information about less serious offences is being questioned in relation to the impact it has on offenders. The retention project is looking at how to minimise data aligned with maintaining operational priorities.
- vii. The Data Protection Impact Assessment (DPIA) needs to build upon the 2017 Privacy Impact Assessment and deliver on the concerns Civil Society raised at that time and since. The challenge of writing a DPIA that documents and does justice to those concerns is complex. We have therefore determined we needed to bring in a dedicated full-time resource to write the DPIA by September 2019. That person starts in March.
- viii. This is a significant commitment from Civil Society Members and therefore there is a concern to make it as meaningful as possible. The pace of progress could be faster and that papers are not always issued with sufficient time to enable proper digestion prior to meetings must be improved. We are looking into changing the way that we are organised and are recruiting to provide dedicated policy resources to start as soon as possible to tackle these issues in future.

4. In relation to the Open Space in general we are proposing:

- i. The Open Space maintains its meeting frequency,
- ii. Involve continues to maintain the Open Space,
- iii. That Open Space members register their interests against which they desire to see progress,
- iv. There is an annual “Open Space” report compiled by academics/civil society covering those interests as outlined in the Governance Discussion Paper for this workshop too,
- v. The Open Space, through Involve, commissions this annual report but maintains its independence by not writing it,
- vi. There are periodic Home Office Ministerial meetings where Involve with representative interested members of the Open Space can discuss issues and progress.

5. In relation to the LEDS specifically, the Home Office is proposing the multi-year timeframe in Appendix A as shared in the Governance Discussion Paper.
6. **Key question: The Home Office is keen for feedback on these proposals, in particular what additional changes might be needed to continue the Open Space beyond May 2019?**

Appendix A – Candidate publication timeframes

2019	September	Academia driven by civil society engagement in the Open Space. Academic holds the pen receiving direction from Open Space on the summary of issues discussed and resolved, discussed and not resolved, and outstanding issues that still require work. Objective - start the public debate for the Public Consultation and inform the input into the Practitioners thoughts on the Code of Practice.
	October	Home Office working in partnership with the College of Policing publish the draft Public Guide formal (practitioner) consultation. Objective – Publish a guide for public consumption that details the expected standards, how these should be interpreted and what impact these standards might have to individual data subjects.
	October	Home Office working in partnership with the College of Policing publish the draft Code of Practice formal (practitioner) consultation on Code of Practice published in public domain. Objective – Publish a draft set of legal principles to become legally binding upon Chief officers in England and Wales and administratively binding on all LEDS Users.
	November	Home Office publishes its DPIA updating the PIA that covers the PNC/PND/LEDS. Objective – Legal requirement to write and to publish details of the DPIA.
	November	Home Office publishes (limited) details of law enforcement user organisations and the purposes for which they use PNC and PND. Objective – Legal requirement aligned to the DPIA. With sufficient details to aid understanding of the DPIA.
	November	Home Office publishes Policy Equality Statement details of law enforcement user organisations and the purposes for which they use PNC and PND. Objective – Legal requirement to aligned to the DPIA. With sufficient details to aid understanding of the DPIA.
2020		
	June	Code of Practice Public consultation updated with comments received. Objective - conclude the public debate on the Code of Practice with a three-month consultation especially about National Register of Missing Persons
	June	Public Guide to assist understanding of the Code of Practice consultation updated with comments received. Objective - conclude the public debate on the Code of Practice/Public Guide with a three-month consultation especially about National Register of Missing Persons
	September	Academia driven by civil society engagement in the Open Space. Academic holds the pen receiving direction from Open Space on the summary of issues discussed and resolved, discussed and not resolved, and outstanding issues that still require work. Objective - start the public debate for the Public Consultation and inform the input into the

		Practitioners thoughts on the Code of Practice. This links to the desire from Biometrics commissioner to start a public debate.
	November	Home Office publishes its DPIA (2020) updating the 2019 version updating on mitigating actions. Objective – Legal requirement to write and to publish details of the DPIA.
	November	Home Office refreshes publication of details of law enforcement user organisations and the purposes for which they use PNC and PND. Objective – Legal requirement aligned to the DPIA. With sufficient details to aid understanding of the DPIA
	November	Home Office publishes Policy Equality Statement details of law enforcement user organisations and the purposes for which they use PNC and PND. Objective – Legal requirement aligned to the DPIA. With sufficient details to aid understanding of the DPIA
	December	Parliamentary laying of updated Code of Practice and Public Guide
2021	January	NCA – Publish early stats on the National Register of Missing Persons
	June	Refreshed Code of Practice Public consultation updated with comments received. Objective - conclude the public debate on the Code of Practice with a three-month consultation especially about Initial use of LEDS with PNC data
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	December	Parliamentary laying of updated Code of Practice and Public Guide
	February	
2022		Home Office report to refer to (NCA) full year National Register of Missing Persons statistics and narrative. Initial PNC in LEDS operation

	June	Home Office Refreshed Code of Practice Public consultation updated with comments received. Objective - conclude the public debate on the Code of Practice with a three-month consultation especially about Initial use of LEDS with PND data
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	December	Parliamentary laying of updated Code of Practice and Public Guide
2023	February	Home Office report to refer to (NCA) full year National Register of Missing Persons statistics and narrative. Full year of PNC data in LEDS operation and partial PND in LEDS operation.