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## **Statistics at NHSBSA**

### **Statement of Compliance with Pre- release Access to Statistics Order 2008**

## Document Release Note

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Statement of Compliance with Pre-release Access to Statistics Order 2008	v002	Compliance statement showing how the NHSBSA works to the requirements of the Pre-release Access to Statistics Order 2008

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### About this document

This statement sets out the NHS Business Service Authority's operational arrangements for giving Ministers, the NHSBSA Chair, Chief Executive, 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 and officials to comment immediately on the implications of statistics covering policy areas for which they are democratically responsible.

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## Section 1: Statement of Compliance

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This Statement is published in conformance with Section 9 of the Pre-release Access to Official Statistics Order 2008<sup>1</sup> which was approved by Parliament under Section 11 of the Statistics and Registration Service Act 2007 and which came into effect on 1 December 2008. It sets out the Department's operational arrangements for giving Ministers, the NHSBSA Chair, Chief Executive, and their briefing officials pre-release access to our own 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 whilst also allowing ministers to comment immediately on the implications of statistics which cover policy or operational areas for which they are democratically responsible.

### **a) Exclusion**

Different arrangements apply to ministers' and officials' access to NHSBSA administrative or management data where those data subsequently form the basis for published Official statistics. These arrangements have been described separately by the National Statistician and are published on the UK Statistics Authority's website.

### **b) Authority**

These arrangements have been drawn up by the NHSBSA's Lead Official for Statistics in consultation with the responsible ministers and the organisations Chair and Chief Executive. The Lead Official for Statistics is also responsible for ensuring the day-to-day implementation of these arrangements.

### **c) General principle**

The NHSBSA operates under the general principle that pre-release access to Official Statistics must be:

1. Limited to the minimum number of persons deemed necessary to allow a minister to either:
  - i. Provide responses to questions, or make statements about those statistics at, or shortly after, their time of publication.
  - ii. Take action just before, at, or shortly after the time of publication.

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<sup>1</sup> <http://www.legislation.gov.uk/uksi/2008/2998/contents/made>

2. Allowed in those circumstances where the public benefit likely to result from such access outweighs the detriment to public trust in Official Statistics that may also result.

#### **d) Grant of advance access**

The arrangements set out in this statement are confined to those persons who meet the eligibility criteria set out in annex A which is attached. Their advance access is limited to statistics which meet the eligibility criteria set out in annex B attached, and which are in their final form prior to being published for the first time.

#### **e) Documentation and publication**

In the interests of openness and transparency, the NHSBSA will publish with each statistical release a statement of the pre-release access arrangements for that release; this will include the job titles of all those persons to whom pre-release access has been granted, and the organisations to which they belong. The justification for giving advance access to each listed recipient is available on request.

#### **f) Period of access**

In line with the legislation, pre-release access to the Department'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 Principle 5 of the Pre-release Access to Official Statistics Order 2008, our Lead Official 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 that is likely to result from such extended access. When this happens, our Lead Official for Statistics will publish on the NHSBSA website their reasons for granting extended access, and will also inform the UK Statistics Authority's chief executive, the National Statistician.

#### **g) Conditions of access**

Those persons who are given access to NHSBSA Official Statistics ahead of their release must keep the statistics secure and under embargo, and they must abide by the following conditions of access. They must avoid:

1. Disclosing the statistics or any part of a publication containing those statistics to any person not listed as a pre-release recipient.
2. Providing any indication of the size or direction of any trend revealed by the statistics.
3. Using such access for personal gain or taking any action for political advantage.

4. Exploiting such access to change or compromise the content, presentation, or timing of publication of official statistics.

Where the statistics in question are market-sensitive, each recipient must sign a declaration to the above effect.

## **h) Special circumstances**

Aside from the circumstances described above, our Lead Official for Statistics may also allow access to statistics ahead of their 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.

## **i) Breach of conditions of release**

In the event that we become aware that a lapse in release practices for any of our designated 'National Statistics' has led to a substantive breach of the principles and rules set out in the legislation and described in this Statement, our Lead Official for Statistics will notify the UK Statistics Authority's chief executive (the National Statistician), take action to prevent a recurrence, and provide the Authority 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 posted on the Authority's website. In the case of minor breaches, or genuinely accidental breaches which have no major repercussions, our Lead Official for Statistics may deal with the matter informally.

## **j) Sanctions against non-compliance**

The NHSBSA Lead Official for Statistics may, for a period, withdraw pre-release access from any person judged to have breached the conditions of their access.

1. 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.
2. In the event of any such challenge or withdrawal our Lead Official for Statistics will publish a response on the NHSBSA website along with its plans for achieving conformance.

## Annex - A (Criteria for granting pre-release access)

### Criteria for granting pre-release access

1. Categories of persons within government to whom NHSBSA would normally grant pre-release access to its statistical releases:
  - i. 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.
  - ii. Those chief executive and organisation's Chair(s), who have operational responsibility for a particular activity covered by a release, 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.
  - iii. The Departmental or Agency officials with ultimate responsibility for formulating, developing, maintaining, monitoring, or implementing that policy.
  - iv. Other Departmental or Agency officials who have been assigned the specific responsibility to brief ministers or chief executives about the statistics in question (for example, special advisers, policy advisers, analysts).
  - v. Departmental press officers responsible for managing ministers' interface with the media with respect to the policy or statistics in question.
  - vi. Additionally, any immediate ancillary staff who support the above
  
2. Categories of statistical release to which the NHSBSA would normally grant pre-release access:
  - i. Releases categorised as 'market-sensitive' (i.e. releases which embody statistics which, when disclosed, would be reasonably likely to have a significant effect on the value or traded volume of any investment). Currently, none of the Department's statistics fit into this category.

- ii. Releases which incorporate statistics which are used to monitor, measure, or benchmark the government's performance (either generally, or against formal targets) or the outcome of public policy.
- iii. Releases which have the potential to impinge substantially on the formulation, implementation, or evaluation of government policy.
- iv. Releases which have the potential to inform, or impact on, decisions about the allocation of public funds.
- v. Releases which have, demonstrably and historically, had a high public profile (i.e. regularly generate column inches in the print media 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.
- vi. 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.
- vii. Compendia publications (which often include data which has already been released) or complex publications which may 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.
- viii. Releases which cover matters of wide public interest.

## Annex – B (Definitional notes)

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### 1. Pre-release access

- i. 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:
  - a) Those staff intimately engaged in the process of producing and disseminating the statistics in question (including those responsible for overseeing this process).
  - b) Those persons requested by producers of statistics to quality assure their statistics before their public release.

However, the restrictions listed under 'Conditions of access' do apply to the above

### 2. Lead Official for Statistics

- i. Where an organisation produces official statistics but not a sufficient number to warrant appointing a Head of Profession for Statistics (HoP), or where there is no suitable candidate for the HoP role, that organisation should appoint a Lead Official (LO) for statistics. Often, but not always, arm's length bodies (ALBs) would be expected to appoint an LO rather than a HoP. Where possible, such organisations should make arrangements for the LO to be supported by a HoP in another (e.g. sponsoring or related) organisation. During engagement with the UK Statistical System LOs have the same responsibilities as HoPs with regard to compliance with the Code of Practice for Statistics and are accountable to the National Statistician on professional matters. The relevant HoP is then responsible for providing professional guidance and support to the LO on all official statistics matters. While the LO retains responsibility for Code compliance and interaction with the Office for Statistics Regulation (OSR) in their organisation, the HoP and LO are expected to work closely, with the HoP leading on the LO's behalf on cross-GSS and HR matters in particular.

The HoP is responsible for acting as the focal point for communication between the National Statistician, the Government Statistical Service (GSS), and the ALB. The LO is responsible for liaising directly with the OSR during the assessment of official statistics produced by their organisation, keeping the HoP informed of progress and any issues arising. By exception, the National Statistician may wish for particular

LOs to interact more directly with the wider GSS and HoPs as the leadership group for the GSS.

## Contact us

Feedback is important to us; we welcome any questions and comments relating to this document.

Please quote 'Statement of Compliance with Pre-release Access to Statistics Order 2008' in the subject title of any correspondence.

You can contact us by:

**Email:** [nhsbsa.statistics@nhs.net](mailto:nhsbsa.statistics@nhs.net)

You can also write to us at:

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**END.**