

# STATISTICS AND REGISTRATION SERVICE BILL

## STATISTICS COMMISSION – BRIEFING – revised 5 January 2007

This briefing note is in three parts:

- Observations on the Bill
- Suggested amendments
- Supplementary note on the Code of Practice and its application

### OBSERVATIONS ON THE BILL

The Statistics Commission strongly welcomes the intent of this Bill, to create an independent board to enhance confidence in government statistics. The Bill will establish a new Statistics Board which will subsume the Office for National Statistics (ONS) and become a non-ministerial department in its own right whilst remaining within the overall responsibility of the Treasury, in much the same way as Her Majesty's Revenue and Customs. In effect the new Board will replace:

- the statistical functions of the Office for National Statistics
- the oversight role of Treasury Ministers in relation to ONS functions
- the independent Statistics Commission.

Done right, this should provide genuinely independent oversight of the production and publication of official statistics and thus give the public good reason to trust the statistical service. Among the welcome provisions of the Bill is the non-executive majority on, and chair of, the Board and the broad scope of its responsibility for statistical governance. That Board will bring increased authority to the dealings ONS has with the rest of government and we believe this is a necessary and important step forward. We welcome also the 'non-ministerial' status of the new body; the authority of the Board to approve and maintain a Code of Practice; and the moves towards improving access to, and use of, administrative data held across government to enhance statistics and minimise the compliance burden.

We are however concerned that the Bill as presently drafted:

- does not secure a sufficiently clear separation of executive and scrutiny roles;
- gives the Board responsibility for, but not authority over, official statistics in government bodies other than ONS;
- does not place government bodies under an explicit obligation to observe the Code of Practice;
- continues to let Ministers - rather than the Board on behalf of Parliament - determine the rules for access to statistics before they are published.

### The independence of the Board

The Bill as presently drafted gives the Board both a scrutiny role<sup>1</sup> over all government statistics and an executive role<sup>2</sup> in producing some statistics.

The Statistics Commission believes that it will be essential for the Board to focus primarily on its role of 'defining the rules', monitoring compliance with them and assuring Parliament on these matters. We understand that government expects the Board to delegate<sup>3</sup> all

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<sup>1</sup> Clauses 7 and 8

<sup>2</sup> Clauses 6, 18 and 53

<sup>3</sup> Clause 33

responsibilities for the production of statistics to a new 'executive office' under the National Statistician (to replace ONS). We agree that the National Statistician must not be involved directly in the scrutiny function. She must however be given formal responsibility for the overall planning, production and quality of statistical products.

In order to achieve this, we believe that the Bill should explicitly provide for a demonstrable separation of the governance and scrutiny functions of the Board from the production functions of the executive office. This separation must be beyond question. If it remains unclear where responsibility lies, neither the Board nor National Statistician will be able to function effectively or command the confidence of Parliament.

With these considerations in mind we have suggested amendments to clauses 6, 9, 18, 20, 21, 29 and 31 (see attached)

### **The authority of the Board**

The Bill as presently drafted confers the **responsibility** to safeguard the quality of all official statistics<sup>4</sup> without commensurate **authority** over those statistics produced by government departments other than ONS.

The Board, in the form the Bill proposes, will only have sufficient authority to resolve shortcomings in statistical practice, outside ONS, if strongly supported by Government and Parliament. We note that the Government expects authority in practice to derive from the active engagement of Parliamentary select committees in matters raised by the Board<sup>5</sup>. Whilst the regular involvement of Parliament would be a powerful mechanism, we believe that more could still be done, both within the Bill itself and through the explicit commitment of Ministers to non-statutory arrangements, to strengthen the Board's authority.

We have suggested a new sub-clause under clause 10 to require all authorities that produce official statistics to observe the Code (see attached).

### **Code of Practice**

The Bill requires the Board to develop a Code of Practice for National Statistics. The Code must be broadly drawn and cover matters such as resources, commentary and dissemination. If it is narrowly focused on statistical methods, even full compliance will not buttress public confidence. We therefore assume the Code will have coverage akin to the proposals that the Statistics Commission has now published for consultation<sup>6</sup>. The Bill should clearly state that the Code will be binding on all government bodies producing official statistics. It must also empower the Board to assess compliance as it sees fit. The Code must apply to the government body as a whole and to all the statistical work of that body.

We have suggested amendments to clauses 10 and 12, and deletion of clauses 13 and 16, to address these points. Should the concept of National Statistics be retained in the Bill, we would want to see the power to determine which statistics are so labelled resting with the Board rather than with Ministers. This is not currently reflected in our suggested amendments as we think it more logical to treat all official statistics according to the same rules. This would remove the need for some statistics to be identified as National Statistics

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<sup>4</sup> Clause 7

<sup>5</sup> See *Independence for Statistics, The Government Response*, November 2006, paragraph 2.27

<sup>6</sup> A Code of Practice for National Statistics: Interim Report for Consultation, Statistics Commission, Dec 2006, <http://www.statscom.org.uk/uploads/files/reports/Report%2031%20Code%20Consultation%20Dec%202006.pdf>

and the rest to be classed as 'other official statistics'. Further discussion of the content of the Code of Practice and its application to all official statistics is appended as a supplementary briefing note.

### **Pre-release access**

The Bill as presently drafted gives Ministers rather than the Board the power to determine the period of their pre-release access to official statistics<sup>7</sup>. The Statistics Commission would wish to see the Bill give this power to the Board, in consultation with Ministers. We believe that this is the only way of giving sufficient public assurance that official statistics are free from government "spin".

We have suggested deletion of clause 11 and part of clause 17 to address this.

### **More detailed observations on key clauses**

The Statistics Commission has set out some more detailed observations on key clauses of the Bill in a separate document which can be found at

<http://www.statscom.org.uk/uploads/files/other/SRS%20Bill%20clauses%20-%2018%20Dec.%2006.pdf>

### **Non-statutory arrangements**

Those measures more suited to **non-statutory** arrangements would include a strong concordat between the four UK administrations on how they will work together on statistics; explicit recognition by all four administrations that government departments are expected to follow the advice of the Board on the interpretation of the Code; and arrangements for direct access to the Prime Minister for the chair of the Board on matters of national importance.

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<sup>7</sup> Clause 11

## **STATISTICS COMMISSION**

### **SUGGESTED AMENDMENTS TO THE STATISTICS AND REGISTRATION SERVICE BILL**

#### **The independence of the Board**

In clause 6(1) (a), page 3, line 34, replace “the Board” by “the National Statistician”

In clause 9(1), page 4, line 37, replace “The Board” by “The National Statistician”

In clause 18, page 8, replace “the Board” by “the National Statistician”:

clause 18 (1), page 8, line 15

clause 18 (2), page 8, line 17

clause 18 (3), page 8, line 19

clause 18 (4), page 8, line 21

clause 18 (5), page 8, line 23

In clause 20 (1) (a), page 9, line 11, replace “the Board” by “the National Statistician”

In clause 21, page 9, line 20, replace “the Board” by “the National Statistician”

In clause 29 (1), page 12, line 19, replace “chief executive of the Board” by “chief executive of the executive office created by virtue of clause 29(5)”

In clause 29 (1), page 12, line 19, add “and to be the government’s chief adviser on the planning, production and quality of all statistical products”.

In clause 29 (4), page 12, line 28, after “The Board may” insert “**not**”

In clause 29 (4), page 12, line 28, after “Statistician” insert “or any employee of the Executive Office created by virtue of 29(5)”

In clause 29 (4), page 12, line 29, delete “not” before “to exercise”

In clause 31 (4), page 13, line 26, delete “the Board” and insert “the National Statistician”

#### **Aim of amendment**

To secure a sufficiently clear separation of executive and scrutiny roles

#### **The authority of the Board**

Add new clause 10(4), page 5, line 16, “All authorities that produce official statistics must observe the Code of Practice, consulting the Board on matters of interpretation as necessary.”

#### **Aim of amendment**

To strengthen the Board’s authority in relation to official statistics

Suggested amendments continued...

### **Code of Practice**

In clause 10(1), page 5, line 7, replace “Code of Practice for National Statistics” by “Code of Practice for Official Statistics”.

In clause 10(1), page 5, line 8, add “taking account of the principles set out in the European Statistics Code of Practice, the United Nations Fundamental Principles of Official Statistics and any other relevant international codes or agreements.”

Replace clause 12(1), page 6, line 11, with “The Board must, in accordance with this Part, assess and determine whether the Code of Practice for Official Statistics under Section 10 has been complied with by the relevant authorities.”

Delete clause 12(2), page 6, lines 15-17

Delete clause 12(3), page 6, line 18

Delete clause 12(7), page 6, lines 25-37

Delete clause 12(8), page 6, lines 38-40

Delete clause 13 entirely, (page 6, line 41 to page 7, line 14)

Delete clause 16 entirely, (page 6, line 33 to page 6, line 36).

### **Aim of amendment**

To ensure the Code is broadly drawn, covers all necessary matters and applies to all the statistical work of bodies that produce official statistics.

### **Pre-release access**

Delete clause 11 entirely, page 5, line 16 to page 6, line 9

Delete clause 17(4), page 8, line 9 to page 8, line 10.

### **Aim of amendment**

To ensure that the Board, on behalf of Parliament and after consultation with Ministers, is empowered to determine the arrangements for pre-release access to statistics, as part of the Code of Practice.

## STATISTICS COMMISSION

### SUPPLEMENTARY NOTE ON THE CODE OF PRACTICE AND ITS APPLICATION

The Statistics Commission believes that the Code of Practice could be revised so as to apply to all official statistics without creating any significant additional burden on the bodies that produce the statistics. In December 2006, the Commission published an interim report on a revised Code<sup>8</sup> for consultation. The draft Code contained in that report is consistent with the requirements of the Bill in its current form and thus relates to National Statistics rather than the broader concept of official statistics, but it would require minimal change to apply to the latter.

The Commission's draft Code consists of nine principles, as set out below, each of which has associated with it a set of 'practices' that producer bodies would be expected to follow. Assessment of compliance against this Code would take account of the public interest in ensuring compliance. So obscure statistics produced as a by-product of departmental administrative processes that are of little public consequence would still be expected to comply with the principles but less so with the more specific 'practices'. Statistics of national importance, on the other hand, would be examined closely against every 'practice'.

#### The Code principles (from the Commission's draft)

- 1) Integrity:** At all stages in the production and dissemination of National Statistics, the public interest should prevail over organisational, political or personal interests.
- 2) Relevance:** The production of National Statistics should be planned so as to inform decisions in government, public services, business and the wider community. As far as possible National Statistics should be internally consistent, consistent over time, and compatible between producers.
- 3) Sound methodology and assured quality:** The methods for the collection, processing, storage and presentation of National Statistics should accord with scientific principles and internationally recognised best practice and agreements. Quality should be monitored and assured independently following centrally determined procedures.
- 4) Value for money:** The resources allocated to statistical work should be used optimally to deliver outputs that meet the needs of users inside and outside government.
- 5) Communication:** Statistics and information about statistical processes should be published in a form convenient to users and in as much detail as practicable.
- 6) Accessibility:** National Statistics should be equally accessible to all users
- 7) Confidentiality:** Confidential data collected or used for statistical purposes should be strictly protected and should not subsequently be used for non-statistical purposes.
- 8) Proportionate burden:** The reporting burden should be proportionate to the value of the statistics to users and should not be excessive for respondents.
- 9) Adequate resources:** The resources made available for statistical functions should be sufficient to meet the requirements of this Code.

In practice, many of these principles are not so much about the statistics themselves but rather about the way statistical work is approached. This again argues for a common Code for all statistical work. The Bill (clause 7) gives the Board the objective of promoting and safeguarding all official statistics. To do this effectively, it will need a Code that applies to all

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<sup>8</sup> A Code of Practice for National Statistics: Interim Report for Consultation, Statistics Commission, Dec 2006, <http://www.statscom.org.uk/uploads/files/reports/Report%2031%20Code%20Consultation%20Dec%202006.pdf>

official statistics – the alternative of having two different Codes, one for National Statistics and one for the rest, would be confusing and complex.

It is also relevant here that some statistics that are not currently National Statistics relate to matters which could be of considerable public interest or concern. A few examples<sup>9</sup>

- Hospital bed availability and occupancy (annual)
- Cancelled NHS operations (quarterly)
- NHS Inpatient Waiting Times figures (monthly)
- NHS Workforce Vacancy survey
- NHS earnings survey
- Energy projections for the UK
- Business survival rates – businesses still registered for VAT after one and three years
- End of Month Prison Population count
- Armed forces medical discharges ( included as national statistics prior to 2003)
- Council house sales, England (quarterly)
- Council tax and non-domestic rates collection rate figures, England
- Estimates of unauthorised migrant population
- Index of multiple deprivation, England

These arguments underlie the views expressed in this Brief about changing the application of the Code to cover all official statistics.

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<sup>9</sup> drawn from a supplementary memorandum by the Statistics Commission to Treasury Select Committee, reproduced in House of Commons Treasury Committee, *Independence for statistics, Tenth Report of Session 2005-06*, ev 91-5

The Statistics Commission was set up in June 2000 to advise on the quality, quality assurance and priority setting for official statistics, and on the procedures designed to deliver statistical integrity, and to help ensure official statistics are trustworthy and responsive to public needs. It is independent of Ministers and of the producers of official statistics. More information about the Commission's role and work is at [www.statscom.org.uk](http://www.statscom.org.uk).

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