

Statistics Commission

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Legislation to build trust in statistics Report by the Statistics Commission

Statistics Commission Report No 18
May 2004

Statistics Commission

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Legislation to build trust in statistics

Report by the Statistics Commission

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Foreword

Crucial decisions affecting all our lives are driven by official statistics. The Statistics Commission exists to help make sure that decision-makers, and the wider public, can trust those statistics. It is appropriate therefore that the Commission should have been invited to review the need for legislation to bolster that trust.

This review was commissioned by the Government when it introduced new arrangements to strengthen the management of official statistics in June 2000 – the review to be undertaken after the new arrangements had been in force for two years. Since June 2000 there have been a number of relevant developments such as the report on National Statistics by the House of Commons Treasury Committee, the production of the National Statistics Code of Practice, the publication by the Royal Statistical Society of a paper offering a considered view on the case for legislation, and the report of the independent Government Communication Review Group (the Phillis Review). The Statistics Commission has now undertaken a comprehensive study of the issues, including these new developments, and this report sets out and explains our conclusions and recommendations.

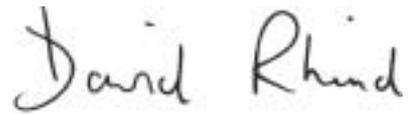
The report was developed by a committee of the Commission chaired by Dame Patricia Hodgson. It draws on extensive discussions with interested parties, commissioned research, and the invaluable advice of legal advisers from the Treasury Solicitor department. The main report, which is relatively short, is supported by a series of important annexes dealing with particular issues in greater detail. Part 2 sets out alternative models for legislation in detail, in order to remove any uncertainty about the nature of our recommendations and to demonstrate their viability.

Our main conclusion, echoing those of the Treasury Committee, the Royal Statistical Society and the Phillis Review, is that legislation is required. The non-statutory framework for official statistics introduced in 2000 has been beneficial but has not gone far enough. We want to see legislation introduced that will require government departments and agencies to follow a new statutory code of practice, enforced by a statutory commission. This will help to ensure we have a statistical service in the United Kingdom which serves, and is seen to serve, the public interest. That is the thrust of our report.

Nothing in this report should be seen as implying criticism of the professionalism, expertise and dedication of the thousands of officials, government statisticians and others, who are responsible for producing and advising on statistics under the leadership of the National Statistician. We would not wish to diminish their role or detract in any way from the authority of the National Statistician.

Foreword

I am most grateful to the many people who have contributed to the final report and I commend it to government and to all those who care about the integrity of official statistics in the UK. My fellow commissioners and I are in no doubt that the success of, and trust in, such statistics is something which matters to everyone in the country.

A handwritten signature in black ink that reads "David Rhind". The script is cursive and fluid, with the first letters of "David" and "Rhind" being capitalized and prominent.

David Rhind, Chairman

LEGISLATION TO BUILD TRUST IN STATISTICS

PART 1

MAIN REPORT

1. Summary and Recommendations

“It is important for our statistics to be good. But it is just as important for the statistics to be trusted by all those – Government, the Opposition parties, pressure groups, citizens – involved in debating policy. The alternative is that debate degenerates into disputes about the facts, with the risk that the process of making decisions and monitoring delivery may be compromised.”

Prime Minister, September 2002, in the preface to the National Statistics Code of Practice. [1]

Summary

1.1. This report considers the case for legislation to promote public confidence, or trust, in official statistics. It concludes in favour of legislation and recommends a particular statutory model.

1.2 The report does not discuss in detail the current non-statutory arrangements for co-ordinating official statistics. There is much in these arrangements, which have become well-established over time, that is effective and that we would not wish to see change. Central to them is the leadership role of the National Statistician and the acceptance by government departments that departmental statisticians have duties and accountabilities within a UK framework that are distinct from the duties and accountabilities of other departmental officials. We believe our proposals will reinforce these arrangements, not replace them (*see paragraphs 1.12 – 1.15 and 4.12 – 4.15*).

1.3 The Statistics Commission adopted three points of principle to guide its work:

- We would aim to propose measures that would enhance public confidence in the arrangements governing all official statistics, not just those under the control of the central organisation – the Office for National Statistics. This means that our proposals would need to be operable across many organisations.
- We would propose no machinery of government changes – that is changes that impact on which parts of government are responsible for particular statistical activities – provided we were satisfied that a viable model could be identified that did not require such changes.
- We would focus our attention on legislative provisions relating to public confidence and not confuse the aims of legislation by addressing other matters in respect of which legislation may need to be considered. Our concern should be to identify clear-cut measures to secure compliance with best professional practice and ensure effective accountability for the statistical system as a whole.

1 Summary and Recommendations

1.4 There are several essential steps in the argument for legislation and we summarise them here one step at a time.

1.5 **First**, trust in statistics is without doubt a matter of sufficient consequence to warrant consideration of primary legislation. There are two key arguments. One is that decisions of real importance inside and outside government are directly influenced by official statistics and a lack of trust will lead ultimately to weaker decisions, potentially resulting in major economic costs. The other is that trust in the institutions of government and in public services – health, social services, education, the police – is intimately linked to trust in official statistics. Consider, for example, how much our knowledge of the NHS is dependent on statistics. (*Paragraphs 3.1 – 3.6*)

1.6 **Second**, the level of public trust is currently lower than is desirable in a modern democratic state in which so much of policy and operational decision-making rests on an evidence base largely composed of statistics. Objective evidence on the current level of trust is elusive but it may be sufficient here to point to what has already been said in various government White Papers, by the House of Commons Treasury Committee, by the Royal Statistical Society and, recently, by the independent Government Communication Review Group, among others. The news media provides another barometer of public trust and it continues to read ‘stormy’. (*Paragraphs 3.13 – 3.18*)

1.7 **Third**, the steps already taken to bolster public trust, whilst commendable in most respects, are not sufficient to deliver a robust system. This is perhaps a controversial step in the argument in view of the fact that the *Framework for National Statistics* [2] was launched in June 2000 with precisely this aim and was supported by the establishment of the Statistics Commission and the introduction of the National Statistics Code of Practice. However, the Statistics Commission has taken stock and finds these arrangements inadequate in some important respects. (*Paragraphs 2.8 – 2.16 and 3.13 – 3.21*)

1.8 **Fourth**, there are legislative steps that could be taken. The UK has a less developed statutory framework than many other countries and we should aim to catch up. Whilst there is no simple formula to deliver trust, additional statutory provisions are a prerequisite for an environment in which trust can be more effectively fostered. (*Paragraph 3.1 – 3.11*)

1.9 **Fifth**, legislation would provide a substantially more robust underpinning than further non-statutory measures. Some seven separate arguments are put forward for favouring a statutory approach. (*Paragraphs 4.1 – 4.3*)

1.10 **Sixth** and finally, we demonstrate in this report that there is a viable model for legislation which would sit comfortably within the extensive framework of existing legislation and convention that regulates the work of the Civil Service. The Statistics Commission is indebted to the expert advice of the Treasury Solicitor department with whom we have worked closely to find an answer. (*Part 2*)

1.11 Our recommended legislative model is sketched out **briefly in the following section, and more fully later in the report.** (*Paragraphs 1.14, 4.6 and Part 2*)

CONCLUSIONS AND RECOMMENDATIONS

1.12 Legislation is needed. The non-statutory framework introduced in June 2000 has been beneficial but requires development and a stronger underpinning structure. **We recommend that Ministers take steps to introduce new legislation (based on ‘Model 1’ in this report) to safeguard and reinforce trust in statistical work in government.**

1.13 In the course of our review, we considered three possible models for legislation. These models may be seen as three points on a wide spectrum of possibilities but we believe that any proposal worthy of consideration will have at its core one of these three models. For completeness, this report presents all three. However, we **recommend** one of them and explain our reasons for favouring it in preference to the other two.

1.14 The preferred model focuses on a new, more robust, statutory code of practice – to be developed by the National Statistician – binding on all government departments, and some other bodies, which collect or use statistics. It would be enforced by a new Commission accountable to Parliament, replacing the existing one. The new Commission would approve the new Code of Practice and would have powers to obtain information in pursuit of its enforcement. It would be supported by an Advisory Panel reflecting wider stakeholder interests.

1.15 There is also a case for new statutory provisions to clarify the powers of, and obligations on, the Office for National Statistics (ONS) in relation to accessing administrative records (tax records for example) for statistical purposes, and for updating existing legislation which provides powers to collect and manage data. The need to address weaknesses of this kind relates primarily to the efficiency and effectiveness of statistical work and is therefore different from the arguments relating to public confidence. Moreover, these issues will clearly have to be addressed in the context of the government-wide debate about data sharing and data protection which is not primarily about the sharing of information for statistical purposes. These are important matters for ONS, and for the government more generally, but should not be allowed to obstruct or delay legislation of the kind proposed in this report. The main issues requiring attention are:

- the possible need for new statutory provisions relating to access to administrative data for statistical purposes
- the need for stricter rules, and possibly legislation, governing the protection of confidential information when used for statistical purposes
- a more general rationalisation of existing legislation that confers powers to collect statistics etc.

1 Summary and Recommendations

A footnote on UK legislation

We are advised as follows: “A UK Bill should only contain legislative propositions. These are propositions that change the law. Any statement that is designed to serve a policy purpose is likely to lead to confusion as to the legal effect and should not, therefore, appear in the text of an Act. Whilst the underlying policy informs the text of an Act, and the way in which the law is changed, legislation is not the place for statements of policy intention. These should rightly be made in Green and White papers and, to some extent, in the explanatory notes that accompany a Bill and explain the legislative intent of the clauses in it.”

In simple terms this means that legislative proposals should not be conflated with statements of policy and we have observed this principle when setting out our proposals.

2. Background and wider considerations

“Official statistics ...are collected by government to inform debate, decision-making and research both within government and by the wider community”
1993 White Paper, Open Government. [3]

“We are pledged to ...an independent National Statistical Service”. 1997 Labour Party Manifesto. [4]

Background and current focus

2.1 As in many other countries, statistical legislation has a long history in the UK. But UK legislation has taken a distinctive route not generally seen elsewhere. Whereas other countries have typically enacted overarching Statistics Acts which draw together the powers, obligations and governance of a central statistical agency, the UK approach has been to address specific subject areas separately as the need arose; so that we have the 1920 Census Act, the 1938 Population Statistics Act, the 1947 Statistics of Trade Act, the 1979 Agricultural Statistics Act among others, and many lesser provisions embedded in more general legislation.

2.2 The existence of these diverse statutory provisions, which for the most part deal with powers and obligations to collect data and maintain confidentiality, seems to have served as a disincentive to the development of an overarching statute setting out the principles and key arrangements for managing statistical work in government.

2.3 Whilst ideas for statistical legislation have been a constant feature of the debate about official statistics since the 1980s or before, no specific proposals for a legislative framework appear to have been put forward within Whitehall itself.

2.4 The current non-statutory framework is acknowledged in the 1999 paper *Building Trust in Statistics* [5] as attempting to do what legislation would have done, but without the legislation. The Statistics Commission regards this as having been a valuable transitional step but not a satisfactory long-term solution for reasons discussed later in this section of the report.

2.5 The arguments for legislation at the present time (April 2004) need to be set in the context of the broader evolution of the arrangements for governance of official statistics. This too has a long history. Setting aside the many developments in the 1960s and 1970s, the late 1980s were marked by a series of important organisational changes designed to clarify and strengthen the arrangements. But concerns about the trustworthiness of official statistics persisted.

2 Background and wider considerations

2.6 In 1990, the Royal Statistical Society published a critical report *Counting with Confidence* [6] which recommended both a statistical commission and a UK Statistics Act. More changes followed. In 1995 the *Official Statistics Code of Practice* [7] was published. In 1996, the enlarged Office for National Statistics was created, bringing together in a single organisation a range of functions that had previously been under the control of different departments and Ministers.

2.7 The Statistics Commission believes that these developments from the 1980s to the present day were important and valuable but still left fundamental questions unanswered. This sense of unfinished business was reflected in the 1997 Labour Party manifesto which contained a pledge to “an independent statistical service” [8].

2.8 Formal consultation on what an ‘independent statistical service’ might look like in practice started with publication of the consultation paper *Statistics: A Matter of Trust* [9] in February 1998. The Foreword by the, then, Economic Secretary to the Treasury, Helen Liddell MP, opens with the observation that “public confidence in official statistics has for too long been clouded by concerns about their integrity”. The consultation paper contained a hard-hitting section on the ‘need for change’ which observed that.... “It is seldom suggested that Ministers actively change the numbers, rather there remains scope for statistics to be subjected to political influence in more subtle ways” and went on to list some of them. That discussion is as relevant today as it was then. The key concerns were (quoting directly):

- Where there is a perception that the choice of statistics to be collected, and the definitions and methods used, is politically influenced
- where there is any perception that the form and timing of publication of statistics may be politically influenced
- statisticians must be free ... to respond, in their professional capacity, to public debate and concerns about statistics
- the financing arrangements must be open and their effects on statistical activity transparent.

2.9 The Green Paper consultation was followed in 1999 by publication of the White Paper *Building Trust in Statistics* [10] which foreshadowed the proposals in the *Framework for National Statistics* [11] issued in June 2000. The substance of the White Paper was discussed in the House of Commons on 19 October 1999 (in a debate on the First Report from the Treasury Committee, Session 1998-99, Office for National Statistics). Opening the debate, Giles Radice MP noted “I agree ... that we should enshrine in legislation the Statistics Commission’s independence... Although there is pressure on legislative time, I am glad that Ministers are at least keeping an open mind.” [12] More generally, those who spoke in the debate tended to the view that more needed to be done than the White Paper appeared to promise. The *Framework for National Statistics* subsequently recognised that the question of legislation remained open and it charged the Statistics Commission with addressing the case for legislation with effect from Summer 2002.

2.10 Between August and November 2002 the Commission consulted interested parties to identify the key issues that would need to be addressed. The consultation document can be found on the Commission's website:

http://www.statscom.org.uk/media_pdfs/consultation/NeedforStatisticsLegislation.pdf [13].

Some 21 responses were received and a summary of the results was included in an internal Commission paper in January 2003 (*Review of the Need for Statistics Legislation: Emerging Findings and Next Steps (SC/LEG/2003/01)*), a copy of which is on the website: http://www.statscom.org.uk/media_pdfs/meetings/legis01/SC-LEG-2003-01.pdf [14]. The majority of respondents favoured a legislative approach.

2.11 The Royal Statistical Society submitted both extensive comments and a draft of the paper which is now included as Annex 1 to this report. In its comments, the RSS stated: "Given that the basic objective of the Government's policy has been to increase public confidence and trust in National Statistics, this should be the most important criterion to be applied to the question of whether legislation is needed" [15]. The Statistics Commission agrees with that view.

2.12 Two other recent reports deserve particular mention. One was the House of Commons Treasury Committee report on National Statistics in January 2001. The report states that:

"In our 1998 report, we said that there was a strong case for the development of National Statistics to be enshrined in legislation. The Royal Statistical Society echoed this conclusion, telling us during this inquiry that 'legislation is necessary to underpin the principles and practice of National Statistics'. The oral evidence we heard in November 2000 has confirmed our initial opinion that legislation is necessary, particularly because we detected a lack of clarity in some aspects of the Framework document. Legislation would establish more clearly the specific responsibilities of Ministers, the National Statistician, the Statistics Commission and others in relation to National Statistics, and guard against political interference and backsliding in future". [16]

2.13 The other report, in January 2004, was from the Independent Review of Government Communications, chaired by Bob Phillis, Chief Executive of the Guardian Media Group [17]. This review, commissioned by the Cabinet Office, looked at a wide range of issues relating to government communications. The report described official statistics as "part of the life blood of political debate" and made several relevant recommendations including that the *Framework for National Statistics* should be given a statutory basis. "This would underline the independence from political interference of the Statistics Commission and the National Statistician".

2.14 To gain a deeper understanding of current issues relating to statistical legislation, the Statistics Commission commissioned three reports:

- *Statistics Legislation*, by Ian Maclean and Ulric Spencer, December 2002. This report examines the arrangements for official statistics in a number of other

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countries and some aspects of the international arrangements. It also looks at UK frameworks for certain professions and organisations. An abridged version of the report is at Annex 4 and the full text can be found on the Commission's website at: http://www.statscom.org.uk/media_html/reports/report_ms.asp [18].

- *Effect of the Statistical Legislation Framework in the UK on the Work of the Government Statistical Service*, by Georgina Fletcher-Cooke, December 2003. [19] This report – reproduced at Annex 2 – examines the existing UK legislative framework for statistical work and comments on its strengths and weaknesses.
- *International Developments in Statistical Organisation*, by Graham Mather, January 2004. This report – at Annex 3 – presents an overview of the international regulatory framework for official statistics with particular reference to the United Nations and European Union. It draws out a number of messages relevant to consideration of the need for UK legislation.

2.15 These reports are wide-ranging and not readily summarised. However, they have influenced the Commission's thinking, and its conclusions and recommendations, in a number of specific ways. For example:

- They draw attention to the views of other countries' statistical agencies about the important role that legislation can play and to the growth in such legislation world-wide.
- They highlight the extensive structure of international bodies that are concerned with national statistical arrangements and which endorse the need for legislation – the UN goes as far as offering a model Act for countries to adapt.
- They underline the increasingly influential role of the UN Fundamental Principles of Official Statistics (Annex 5) across more than 100 countries.
- They clarify the type of role that a Statistics Commission can play under a legislative structure.
- They flag up the need to clarify the existing statutory powers and obligations under which statistics are collected.

2.16 In these and other ways, the authors of the reports have helped to shape and focus our thinking. We commend their reports to those wishing to understand more fully how the matters addressed by the Statistics Commission in this report fit in to the wider administrative picture in the UK and in to the international statistical context.

2.17 The Statistics Commission's proposals focus on the governance of all official statistics that are produced by government departments etc, not just those issued by the Office for National Statistics. Many statistics of great social and political importance in fields such as health, education or criminal justice are produced by the major policy departments. Our proposals therefore concentrate on the need for a

more binding Code of Practice for all organisations that produce these statistics, and more robust enforcement of that Code by a Commission that has been recognised by, and is accountable to, Parliament.

2.18 Our proposals share the goal of the June 2000 Framework of creating an environment in which trust in statistics can be more effectively fostered. They can be seen as evolving directly out of that framework, which established the current non-statutory Commission and heralded the current non-statutory Code, but strengthening accountability and reinforcing or replacing those aspects of the framework that have proved weak.

Other concepts of statistical legislation

2.19 This section of the report considers issues and proposals that are relevant to statistical legislation, but which are not essential to the Commission's main analysis and recommendations.

2.20 Some of these issues and proposals we regard as **complementary**, in the sense that we understand the case for action in these areas whilst still regarding them as different in nature from, and therefore not forming part of, our main recommendations.

2.21 Some relate to ideas we have **rejected** on the ground that we do not think they represent the best way forward, or indeed would not prove viable under the constitutional conventions of the UK. To the extent that these ideas retain some currency among interested parties, it remains important to explain the reasons why we have taken a different path. We deal first with the concepts we have rejected.

Rejected concepts

The international concept of a single 'Statistics Act' for a centralised agency

2.22 In contrast to the Commission's proposals, the international model for statistical legislation – promoted by the United Nations and widely adopted – focuses on the powers, obligations and governance of a single main statistical agency. (The international model is discussed in more detail in Annex 3 *International Developments in Statistical Organisation*). The powers in question include the authority of the agency, usually vested in a 'National Statistician' who heads it, to collect statistics from businesses and the public, to access public-sector administrative records for statistical purposes and so on.

2.23 It is important to note that the purpose behind provisions relating to the powers of a central agency is different from the purpose behind the Commission's current proposals. The former is primarily to ensure that the agency has the authority it needs to carry out its work, whilst the latter is about addressing issues of public

2 Background and wider considerations

trust. Or in other words, one is about a framework for efficient delivery of the service whilst the other is about external scrutiny and accountability. These are not the same thing and we think they are best addressed separately.

2.24 The structure of statistical work in the UK is complex and different in important respects from that in countries that have adopted the international legislative model. In particular, instead of having statistical work concentrated in a single agency, responsibility for the collection, management and publication of statistics in the UK is spread widely, and shared, among the main Whitehall departments and the devolved administrations – see for example the list below which indicates the extent to which responsibility for labour market statistics crosses departmental boundaries. The position in other fields is similar.

Departments etc contributing to the Labour Market theme of National Statistics

Dept for Work and Pensions	Welsh Assembly Government
Dept of Health	Northern Ireland Civil Service
Dept of Trade and Industry	Office for National Statistics
Employment Service	Scottish Executive

2.25 In the absence of a single organisation on which to focus legislation, it might be suggested that the professional practices of the statisticians themselves could be enshrined in legislation. However, statistical work in government departments is not always carried out under the management of a well-defined group of this kind. For example, in the case of statistics that emerge from management information systems, many non-specialist officials have a hand in their creation and management. We have not therefore pursued that concept.

2.26 The Office for National Statistics is the central co-ordinating body but has no direct responsibility for, or authority over, the statistical work that is carried out by other government departments. Responsibility is thus dispersed and our recommendations have been designed to work with the grain of that reality. We address at paragraph 2.28 below the arguments for and against greater centralisation of statistical work but we regard that question as a matter for Government. Our recommendations neither impede nor require further centralisation of statistical services.

2.27 The June 2000 *Framework for National Statistics* sought to overcome what many see as weaknesses in professional accountability inherent in the decentralised structure by overlaying the formal lines of accountability – which run from officials engaged in statistical activities in departments through their departmental Ministers to Parliament rather than through the Office for National Statistics – with what might be seen as a ‘virtual organisation’ called National Statistics headed by the newly designated National Statistician and with responsibility across departments. The assessment of the Statistics Commission is that this has not worked consistently well. The formal lines of accountability remain strongly felt, whilst the informal overlay

causes confusion among those outside the system. The Commission's current proposals start from the reality of Ministerial responsibility for departmental statistical work, and not from the unfulfilled ambitions of the Framework document.

2.28 The attractions of centralised control over statistical services are obvious. A single organisation could be governed by legislation and appropriate supporting arrangements that did not impinge on other bodies. But the arguments against disrupting a well-developed decentralised model are strong:

- Wholesale centralisation would be a major and disruptive change and could produce an unwieldy framework that lacked the support and confidence of government departments. As long as a legislative model can be found that would be effective without changes of this sort, it is to be preferred.
- There are some real operational advantages to the decentralised structure – it is not simply an accident of history. It brings government statisticians close to other analysts and policy makers in government departments, allowing them to build up mutual understanding and be more directly involved in the development, implementation and monitoring of policy. It allows them access, for statistical purposes, to administrative data – from the health service or police for example – held in departmental systems. And it avoids the risk of duplication, where both the central statistical agency and the departments would have teams of statistical staff managing similar data and publishing analyses of it.
- In several departments key statistical activities are integrated with operational and administrative processes, making their separation impracticable. It would therefore be unrealistic to suggest bringing those activities into a central agency. Equally, the statistical activities of the devolved administrations would not be appropriate for centralisation. Thus, some vital areas of official statistics would be 'left out' of any centralisation proposals.
- Debate within government about changing lines of accountability within and between government departments would almost certainly become an obstacle to taking legislation forward and would therefore obstruct pursuit of the main goal of enhanced public trust.
- The tide of administrative devolution in the UK may be seen as favouring a decentralised solution in the longer term and we believe it would be best to seek a legislative model that works with that pattern rather than against it.

2.29 Thus, the concept of a 'single Statistics Act' on the international model appears to be largely incompatible with the highly-developed decentralised structure for management of official statistics in the UK; and there seems to be little merit in pursuing centralisation as a goal in itself if the decentralised model can be made to work effectively.

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2.30 But some provisions that would typically have been included in an Act for a centralised agency can nonetheless be pursued either within the legislative framework that the Commission proposes – as elements of the statutory Code of Practice – or separately, sitting alongside the Commission’s proposals. Examples of elements that could be captured by a statutory Code of Practice include arrangements for consultation and planning and the principle of professional statistical independence from undue political influence. These are key elements in any legal framework that might be proposed. The elements that we believe should be pursued in parallel are described in the section headed ‘Complementary proposals’ below.

The ‘partially centralised’ concept

2.31 A variation on the international model – sitting half-way between full centralisation and the current decentralised structure – has been suggested in a paper published and supported by the Royal Statistical Society. (see Annex 1)

2.32 There is much in the arguments put forward by the Royal Statistical Society that the Commission strongly supports and these arguments have been substantially incorporated in the Commission’s own analysis. The main point on which the Commission differs from the RSS’s concept is whether the many statistical staff scattered across numerous government departments, and the activities they carry out, could be defined in law in such a way that the National Statistician could control them centrally through delegated powers whilst they remained the staff of their individual departments. After careful consideration we conclude that this approach presents too many difficulties and would sit uncomfortably among the conventions and legislation that govern the work of civil servants.

The ‘centralised but dispersed’ concept

2.33 Another concept that has at times found favour among commentators is that some key departmental statistical staff – either a few or many – could remain physically within their departments whilst being employed by the Office for National Statistics. This would create a single central agency but with staff dispersed and specialising in departmental subject areas. This would have a number of virtues, such as ensuring their input to policy development. However, it would also create tensions and managerial complexity, particularly where statistical and administrative functions are closely interlocked – for example in the creation and interpretation of statistics from management information relating to bodies such as the police and NHS. Whichever way it is viewed, a change of this kind would represent such a fundamental shift away from the current arrangements that the Commission does not feel able, nor does it see it as necessary, to make this concept integral to its proposals.

2.34 It is for Government to decide whether changing the lines of accountability, and terms of employment, of departmental statistical staff would be sufficiently practicable to make this a viable option. Nothing in the Commission’s proposals

would serve to prevent such a concept being pursued. Should this ever happen however, the case for a single Statistics Act, focusing on the powers and governance of a much extended and reorganised Office for National Statistics, would need to be addressed afresh. Given the complexity of existing statutory and non-statutory arrangements, this would be likely to require extensive planning and preparation and substantial parliamentary time.

Complementary proposals

2.35 As has already been mentioned, one element of the international model is the inclusion in a Statistics Act of specific powers and obligations to obtain statistical information from businesses, the public and from administrative sources elsewhere in government and to protect the confidentiality of that information appropriately. The UK already has a lot of legislation of this kind but it is not brought together and integrated into a single statute. At present there is no central index of existing powers under which the National Statistician and departmental statisticians act. We believe this ought to be created to clarify the current position and to indicate the scope for rationalisation and the possible need for amending legislation to achieve that.

2.36 The Commission has concluded that some updating of the current provisions is likely to be required. The report at Annex 2: *Effect of the statistical legislation framework in the UK on the work of the Government Statistics Service* discusses some of the problems created by the current jumble of powers and obligations. The main aim of new legislation in this arena would be to tidy up the existing provisions and provide ONS, as the government's dedicated statistical agency, with access to data held in administrative records across government for statistical purposes. Corresponding arrangements have already been put in place successfully in several other countries within the terms of a single Act.

2.37 The benefits could include:

- enhancing the capacity of ONS, and the wider statistical service, to meet the needs of users inside and outside government
- providing a richer and more detailed geographical analysis of statistics for policy purposes
- enabling statistical services to respond more quickly to changing user needs by reducing the time taken to obtain information
- better protecting the confidentiality of individual records when used for administrative purposes
- reducing the costs of producing official statistics in the longer term by making less use of costly sample surveys
- reducing the burden on data suppliers by making best use of what is available

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- contributing to greater public trust in the quality of official statistics and therefore in the service as a whole
- overcoming the negative effects of existing statutory anomalies that allow, for example, a government department to provide data access to contractors and academic researchers but not to researchers and statisticians in another government department.

2.38 The Commission is not alone in drawing attention to this issue. The first report of the Allsopp Review of Statistics for Economic Policymaking noted that “Greater access for the ONS to administrative records, including tax data, could improve both regional and national data, while offering important savings in the compliance burden from survey forms sent to businesses.” [20]

2.39 The Treasury’s *Review of the Revenue Departments* published in March 2004 notes the Allsopp Review’s comments and adds that: “Direct access to the new department’s data by ONS would require legislation” [21] ... but stops short of undertaking to address the matter.

2.40 As a further indication of the requirement, ONS is currently taking forward work to establish a population register. This would improve the efficiency of government services by facilitating the sharing, within government, of basic residential address information for individual citizens and using this to develop better statistics to inform policy development. We understand that this project may not be able to deliver its aims without additional statutory provisions to allow the necessary information to be passed to ONS.

2.41 Although the benefits of providing access to administrative records for statistical purposes would be realised across many fields of statistical work, some specific benefits would relate to future censuses of population and are therefore relevant to other proposals that the Statistics Commission has put forward to Government in recent months (in our interim report on the 2001 Census in Westminster, [22]). In this context, there could be valuable benefits:

- in targeting fieldwork on the hard to count groups such as migrants
- in making estimates to compensate for non-response
- in weeding out duplicate records
- in filling in incomplete information in partially-completed census forms
- by enabling census data to be linked to other information sources, thus overcoming the need to add new questions to the census form
- in quality assurance of census data
- in making improved population estimates between censuses
- ultimately, in doing away with the need for traditional population censuses altogether.

2.42 The main issues that need to be addressed are:

- the possible need for new statutory provisions relating to access to administrative data for statistical purposes
- the need for stricter rules – and possibly legislation – governing the protection of confidential information when used for statistical purposes
- a more general rationalisation of existing legislation that confers powers to collect statistics etc.

2.43 These matters can only be addressed in the context of wider questions of data sharing and data protection within government – both of which are very live issues – and the Commission has not therefore sought to establish for itself the precise scope and formulation of possible legislative provisions.

Linking statutory and non-statutory arrangements

2.44 This report is about the need for legislation. It is not about the many things that are good in the existing non-statutory framework for the governance of official statistics. Our proposals for legislation are not intended to supplant the non-statutory structure. On the contrary, we believe the proposals will strengthen and underpin it.

2.45 Central to the non-statutory arrangements is recognition of the National Statistician as the government's Chief Adviser on all statistical matters. There is a long-established convention that departmental heads of profession for statistics, including those in the devolved administrations, have a measure of accountability to the National Statistician and related duties. These duties are set out clearly in the Framework for National Statistics and we would expect them to persist and evolve under the statutory arrangements.

2.46 Other key non-statutory elements include centralised recruitment, training and, to some extent, career management of government statisticians – leading to a strong professional ethos and identity. All these aspects are overseen and guided by the National Statistician and the Office for National Statistics. There is also a consultative structure of Theme Groups that brings together statisticians from across government to address issues, consult users and build up the component plans of the National Statistics Work Programme.

2.47 All of this, and much else in the non-statutory framework, has the strong support of the Statistics Commission and we would wish to see our proposals for legislation developed in such a way that they interface seamlessly with the effective elements of the current arrangements. We believe that as the author of the proposed statutory Code of Practice, the National Statistician's influence over statistical work in all government departments will be strengthened; and as the resident experts in the interpretation of that Code, the position of departmental heads of profession for statistics would similarly be strengthened within their own departments. The statutory

2 Background and wider considerations

Commission would provide a substantial bulwark to the position of departmental statisticians facing inappropriate pressures. Other details of how the statutory proposals would be integrated with the non-statutory arrangements would depend on the exact terms of the revised Code of Practice.

The roles of the National Statistician

2.48 Whilst seeking not to propose unnecessary machinery of government changes, the Statistics Commission has considered one specific change that has been suggested from time to time. This is that the role of the National Statistician should be divided between two office-holders: with one taking on the role of permanent secretary head of the Office for National Statistics and the other acting as the Government's chief adviser on statistical matters – this split might be seen as analogous to the separate roles of the head of the Treasury and the Chief Economic Adviser.

2.49 The Statistics Commission has concluded that there are arguments both for and against such a change and, although it could have a bearing on some details of the legislative models, it is essentially a managerial issue. We believe that management structures should, as far as possible, be free to adapt to changing circumstances over time and should not be prescribed in legislation if this can be avoided. We are therefore not making a recommendation on this matter but suggest that Ministers should consider it when addressing the recommendations of this report.

3. Trust in official statistics

“The root of most concerns is that the current system is regarded as lacking appropriate safeguards against political interference and as being insufficiently open, which serves to breed distrust of the figures” 1998 Green Paper, Statistics: A Matter of Trust [23]

3.1 Here we deal with why trust is a crucial requirement, how it can be fostered and the existing, largely non-statutory, framework that relates to it. The Phillis Review [24] published in January 2004 drew attention to “the three-way breakdown in trust between government and politicians, the media and the general public”. Any such weakening of trust in government as a whole will tend to put downward pressure on public trust in official statistics as well. This underscores the need now to take measures to bolster trust wherever possible.

The need for trusted statistics

3.2 The use of statistical evidence to inform, underpin and monitor policy has grown substantially in recent years, within central government and across the public services. At the most ‘macro’ level, statistical data inform the conduct of monetary and fiscal policy. At the ‘micro’ level they are used, for example, to target neighbourhood renewal activity. More generally, statistics play a central role in policy development, often acting both as the trigger to policy intervention and as the primary means to monitor implementation. Just as importantly, the allocation of public funding, from the level of European structural funds down to the funding of local projects, is also substantially influenced by the available statistical data.

3.3 The fields of policy and planning in which official statistics play an essential role are diverse and include private sector as well as public services. Health services, local government services, the agriculture industry, insurance and the retail sector, among others, draw on official statistics to inform their planning. Parliament relies on the same information when debating issues of national importance. Elected representatives at national and local level seek to influence the electorate with statistical information about the economy, labour market and society. The phrase quoted earlier in this report that statistics are ‘part of the life-blood of political debate’ is no exaggeration.

3.4 Public confidence in the scope and reliability of official statistics is essential for the effective working of the state and the effective delivery of public services. If decision-makers believe the evidence base is inadequate, they will tend to ignore it. Equally, confidence in statistical reliability is essential if those responsible for key

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decisions – on policy, resource allocation, targeting public services or operational matters – are to make effective use of the available data. Failure to make full use of available information must inevitably weaken decision-making. And whilst no precise economic cost can be placed on failure to have or use relevant information, the costs, when aggregated across the whole economy, are likely to be very high.

3.5 More broadly, if the general public do not trust the statistics that underpin and explain policy initiatives, and that measure the success of those policies, then government and public bodies themselves will not be trusted. Trust in the institutions of government, and in government itself, is therefore intimately linked to trust in official statistics.

3.6 Parliament and successive government administrations have recognised the truth of this, emphasising over a number of years the importance of establishing an impartial and trusted national statistical service which meets the needs of all those who depend on official statistics to inform their decisions and actions. As discussed in Section 2 of the report, a number of important steps have been taken over recent years but trust remains, at best, insecure. The news media are quick to exploit, and thus fuel, fears about the reliability of official statistics. Politicians and lobbyists fan the flames when it suits them.

Ministers and statistics

3.7 There is a complex relationship between Ministers in charge of the major government departments and the statistics produced by those departments (the position of the Office for National Statistics is different). On the one hand, Ministers play a pivotal role in the production of official statistics in most of these departments by authorising, and approving the funding for, the collection of a specific range of data. In practice this role is most commonly exercised when proposals to extend or reduce the range of statistics are put forward by officials; but it is not unknown, or necessarily wrong, for Ministers to take the initiative on these matters either asking for statistics to be collected or seeking to stop their collection. Ministers are responsible for all the work of their officials and therefore, when a department publishes a statistical report, the Minister is responsible for that statistical publication and not unreasonably feels a measure of ownership. Not surprisingly, Ministers like to know in advance what the statistics their departments are about to publish will show. Thus Ministers are, in a very real sense, part of the UK statistical system not merely its guardians.

3.8 On the other hand, Ministers are also among the most important customers for official statistics. This customer relationship can be heightened when the statistics have implications for the perceived performance of the Minister, for example in delivering on quantified targets. Thus Ministers may at times regard the statistics as being variously ‘by them’, ‘for them’ and ‘about them’.

3.9 The Statistics Commission has approached this complex relationship by focusing on the following points:

- The importance of departmental Ministers as users of official statistics must never be forgotten. Their needs in this respect have a very high priority and must not be over-ridden by the competing interests of other users.
- However, public confidence in government, and in official statistics, requires as much separation as possible between a) Ministers and b) decisions about statistical work. But this can never be a complete separation. At minimum, Ministers will still be involved in decisions on funding and those are amongst the most crucial decisions.
- The balance of public interest favours Ministers not normally having access to official statistics before they are published. This is common practice in countries which have a centralised statistical office and whilst the decentralised model in the UK makes it more difficult to enforce, the principle holds good. There are some special cases where statistics are needed immediately for operational decision-making but again these cases should not be allowed to undermine the principle.
- Ministers should not seek to make any political capital out of statistics ahead of their publication. So, for example, we regard it as inappropriate for Ministers, or their spokesmen, to ‘speculate’ the day before about what the statistics are likely to show when they are published. This is particularly damaging to public trust if the speculation is more favourable to the Minister’s position than the figures justify when they are published.

3.10 The view that the Statistics Commission has reached is that a statutory Code of Practice coupled with independent oversight is the only viable way to balance and enforce these points in a decentralised statistical system. A statutory Code of Practice could address, for example, the difficult issue of ensuring that the interests of all users of official statistics are taken into account when funding decisions are taken by Ministers. And independent oversight could help enforce the Code and spot cases of inappropriate anticipation of statistical releases for political advantage. Although this statutory framework might be seen as constraining the freedom of Ministers to act in their own interests, we believe that ultimately it offers them the best possible protection from the damaging suggestion that they have used their influence over statistics against the public interest.

3 Trust in official statistics

Delivering trust

3.11 There is no simple formula to deliver trust but there are measures that could reasonably be expected to create an environment in which trust can be more effectively fostered. These need to be strong enough to answer any suggestions of inappropriate political influence. They include:

- Having robust and transparent ways of assessing the **range of statistics** that are going to be needed by decision-makers and by the general public. This will address any suggestion that the choice of statistics to be collected is subject to political partiality.
- Transparency in the **funding arrangements** for statistical work. Essentially, this means clarity about who decides on funding, what information is taken into account, and why specific decisions were taken. This is needed for the same reason.
- Having thorough ways for **assessing how reliable statistics need to be** for specific purposes – enhanced reliability is often expensive and needs clear justification. Again this is part of ensuring that real needs are met.
- Consistently adopting **ways of describing the reliability of published statistics that are seen to be impartial** and are readily understood by those who are not statistical experts; thus enabling government statisticians to play a fuller part in public debate about statistical matters without undermining their impartiality.
- Consistently using **best international practice, and robust processes of quality assurance**, to collect and manage statistics. This relates to ensuring that the definitions and methods used are seen to be impartial.
- **Releasing statistics to all users at the same time** to avoid the impression that the message from the figures has been open to political ‘spin’ ahead of their release.
- Having a body, independent of government and producers of statistics, which can **advise on all the aspects above** – and which government departments cannot disregard.

3.12 These are, of course, the kinds of measures already addressed, at least in part, in the non-statutory framework and in the National Statistics Code of Practice. The Statistics Commission’s current proposals, however, are intended to establish them on a much more secure footing. The role of a revised and statutory Code of Practice will be central to this.

Building on the existing framework

3.13 The June 2000 *Framework for National Statistics* [25] set out more clearly than before the responsibilities of Ministers and key officials; introduced the concept of 'National Statistics' – which were to be prepared in accordance with a new Code of Practice; rechristened the 'Head of the Government Statistical Service' as the 'National Statistician' with a clearer role; and set up the Statistics Commission. But the Framework also recognised that a case for legislation existed.

3.14 The Government's intentions in inviting the Commission to review the need for legislation were indicated in the earlier White Paper *Building Trust in Statistics*:

“It is essential that the proposed new statistical framework, once established, should itself remain free from political interference. Neither should the arrangements be gradually eroded over time. ... The Government acknowledges the arguments for legislation but has decided to implement the new arrangements on a non-statutory basis in order to secure the benefits as soon as possible. ... The Government has however already indicated that it will consider the case for statistics legislation if necessary and appropriate ...”. [26]

3.15 It is appropriate therefore to ask whether the new framework has remained free from political interference, whether the arrangements have started to be eroded over time and, more fundamentally, whether they have worked as intended. Inevitably perhaps the picture that emerges is mixed. On the positive side, there have been real improvements in the statistical services and funding for these improvements, suggesting that consultation arrangements and awareness of wider needs have improved. One notable example is the development of the Neighbourhood Statistics Service which seeks to meet a very wide range of user needs for small area statistics. This has been universally welcomed by those the Commission has consulted.

3.16 It is important to recognise that the National Statistics Code of Practice, introduced under the new framework, is not simply a code addressing the working practices of government statisticians. It is rather a code for government departments. The Commission recognises that government statisticians have done all in their power to make it work – whilst not always receiving the wholehearted support of government departments.

3.17 On the negative side, the concept of 'National Statistics' launched in June 2000 has never been well understood inside or outside government and, in the view of the Commission, has not done much for public confidence. The Code of Practice itself, whilst undoubtedly a big step forward, has some weaknesses such as a lack of clarity about when and how it applies, leaving the decision to departmental Ministers. It does not apply, for example, to monthly hospital waiting lists statistics but does apply to quarterly ones. As well as suffering from idiosyncratic coverage, the Code falls short of fully addressing the issues listed at 3.11 above.

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3.18 The news media have largely ignored the positive developments and focused on what they perceive as evidence of statistical incompetence or malpractice. Occasional errors made in producing some official statistics – a hazard that afflicts all statistical services – have been presented by journalists as proof of an overall malaise in the UK system. Such attacks may reflect a failure on the part of the media properly to understand the nature of estimation which is central to much of statisticians' work (see, for instance, the Commission's report *Revisions to Economic Statistics* [27]). These attacks, whether justified or not, cannot be ignored as they serve to feed distrust. Whilst legislation will not stop such criticism, it can be expected to offer a more robust framework within which claims and accusations can be investigated openly.

3.19 The Statistics Commission, itself created as part of the June 2000 framework, has had some success in highlighting issues that need to be addressed in order to meet user needs and public expectations. However, lacking any statutory authority, it has had to rely on the responsiveness and co-operation of government departments to bring about change. The Commission would have been substantially more effective in these activities if it had been supported by statutory authority.

3.20 In the early stages of investigating any issue, the Commission needs to establish the facts from, and the views of, the relevant government departments. Departments are currently under no formal obligation to engage with the Commission, and departmental officials are often wary about doing so without approval from the highest level. Some recent instances in which the Commission believes that government departments could have been more forthcoming were:

- Commission enquiries and recommendations relating to the 2001 Census in Westminster
- Commission's recommendation about a national address register
- Enquiries about various apparent breaches of the Code of Practice
- Providing information about the treatment of Network Rail in the National Accounts
- Commission concerns about the production of hospital star-ratings following press stories
- Concerns about statements made on the relative GCSE performance of grammar and comprehensive schools
- Recommendations about providing more information on the use of forecasting in the National Accounts.

It is important to note that these and other problems involve several government departments. Legislation of the kind proposed in this report would not impose a formal obligation on government departments beyond the provision of information

but we believe this, along with statutory recognition of the role of a Commission, would be enough to have a substantial impact on the attitude of officials, and their willingness to co-operate.

3.21 The Commission's judgement then is that the *Framework for National Statistics* has delivered some valuable progress in the four years since its launch but that this has been partly offset by increasingly entrenched media views, occasional errors or failings in statistical outputs, and a disinclination to support the Code of Practice, or engage with the Commission, on the part of government departments.

A statutory code of practice

3.22 Central to the Statistics Commission's proposals is moving away from reliance on a non-statutory Code of Practice of the current type – one whose details require the approval of Ministers and government departments – to a new and more robust Code with comprehensive coverage that would be approved by a new Commission reporting directly to Parliament.

3.23 The drafting of such a Code would properly be a matter for the National Statistician as the country's leading expert and it would not therefore be appropriate for the Commission to suggest precisely how it might differ in content from the existing Code. But a number of possible themes flow from the discussion in this report (at 3.11 and elsewhere) and they serve as an indication of the ground that might be developed further:

- robust and transparent arrangements for assessing the range of statistics that should be available to meet user needs
- transparent arrangements for funding statistical work
- thorough assessment of the levels of reliability needed by users
- greater openness in describing the reliability of statistics, enabling statisticians to play a fuller role in public debate on statistical issues without undermining their impartiality
- ways of ensuring that definitions and methods are seen to be impartial
- clarity on the principles that apply when data from management information systems are used to produce official statistics
- equal access to statistics for all users – both in terms of timing and ease of access
- clarity on the statutory powers and obligations being employed or observed within government departments to collect and manage their own statistical data.

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The case for a kitemark (Quality Labelling Scheme)

3.24 The Framework for National Statistics introduced the concept of ‘National Statistics’ as distinct from the previously accepted terms such as ‘official statistics’ and ‘government statistics’ – the former implying that the statistics are from official sources and the latter linked to the concept of the Government Statistical Service. Although the precise rationale for the new terminology is not fully explained in the Framework, it is clear that National Statistics were to be seen as statistics produced for the ‘nation’ rather than just for government use. However, the associated arrangements also introduced in the Framework – restricting the concept of National Statistics to a subset of all official statistics and having a new Code of Practice that applied only to the restricted set – leave some unanswered questions.

3.25 One question is whether statistical outputs (reports etc) produced in accordance with the Code and bearing the National Statistics label should be seen as carrying a distinct endorsement of quality. The Statistics Commission has gained the strong impression that users of statistics want a quality stamp that tells them that a particular statistical report has been prepared professionally and impartially and that a robust set of principles has been respected. However it is less clear that adherence to the Code of Practice is itself the appropriate test to apply. The detailed models for legislation set out in Part 2 assume the introduction of a quality labelling scheme that would allow for a more flexible approach. But a quality labelling scheme is not an essential component in any of the models and could be omitted if adherence to a more robust statutory Code of Practice was seen by users of statistics as a sufficient guarantee of quality in itself. It should be noted here that we are applying the concepts of quality to the statistical products – reports, databases, press releases etc – rather than the figures themselves. This is because judgments about the quality of data are inextricably linked to questions of the use to which the data may be put. Even very accurate statistics can be misleading if used inappropriately, so it is necessary to look at the statistical product as a whole, which should include professional advice about reliability and appropriate usage.

3.26 Another question prompted by the current interpretation of ‘National Statistics’ is whether different rules should apply to official statistics that are not ‘National’. There appears to be a widely held view that the same rules should apply – which immediately raises the question of why bother with the distinction. This is one reason that in preparing this report the Statistics Commission has referred throughout to ‘official statistics’. It is not that we wish to distance ourselves from the idea that the statistics are for ‘national’ use. On the contrary, we believe all official statistics should be recognised as being potentially (and in many cases actually) of value to a wide range of users and that the distinction between National and Official should simply be abandoned.

4. New legislation

“It is absolutely essential that the new arrangements for National Statistics should be enshrined in a Statistics Act. If the Statistics Commission concurs with our opinion ...we expect Ministers to bring forward legislation as a matter of priority”. House of Commons Treasury Committee, Second Report, National Statistics, 16 January 2001. [28]

“The White Paper ...is perhaps at best the beginning of an idea of what, later, if put in legislative form and much enhanced in various ways, might be a somewhat better way of arranging official statistics.” Oliver Letwin MP, speaking in the debate on the Office for National Statistics, 19 October 1999. [29]

The case for legislation

4.1 It might be argued that whilst the current non-statutory framework requires some strengthening, this could be achieved without legislation. The Commission does not accept that view and believes there is a strong case for taking the statutory route.

4.2 In 2003, the Royal Statistical Society published a paper [30] by the former head of the Government Statistical Service, Professor D. Holt (reproduced at Annex 1), which sets out a number of arguments for statistical legislation. The Statistics Commission agrees with the case presented in that paper and, in summarising the arguments below, we have sought only to add our own perspective. The key considerations are that:

- (a) The UK is virtually alone among developed countries in not having a Statistics Act.
- (b) In the current arrangements, the powers and responsibilities of government statisticians are delegated from Ministers. Statistical legislation could increase the independence, both actual and perceived, of the statistical service.
- (c) A statutory Statistics Commission would be able to offer advice and support to the National Statistician on interpreting the public interest without its authority to do so being called into question.
- (d) Legislation would help ensure that Ministers and officials do not lose sight of their own duties and responsibilities in relation to official statistics.

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New legislation

- (e) Legislation would help to change the culture of the relationship between the producers of official statistics and Ministers, special advisers and other civil servants.
- (f) A White Paper – such as the June 2000 *Framework for National Statistics* – may be regarded as the policy of a particular administration, rather than representing the will of Parliament.
- (g) In its three years of existence, the Statistics Commission has been able to address controversial matters without the support of statutory powers but it would have been more effective to have done so supported by legislation.

4.3 Looking at some of these arguments more closely:

- (a) Whilst the fact that the UK is unusual among developed countries in not having core statistical legislation is not, of itself, an overwhelming argument, it does have an impact on confidence in the UK statistical system. To quote Professor Holt's paper:

“A large number of countries throughout the world have passed Statistics Acts in the last decade and the IMF's Data Quality Assessment Framework includes an assessment of the legislative basis as an integral part of the assessment of a country's statistical output. Similarly the European Union's assessment of the statistical framework within candidate countries included a detailed assessment of the strength of the legislative basis within each country.” (See Annex 1, page 72)

For the UK to be seen to have robust arrangements for official statistics, international commentators will expect to see a sound statutory basis. International opinion inevitably colours judgements made by our own political commentators and news media and this in turn affects public confidence.

- (b) The arrangements that support government statisticians in acting in the public interest need to be reinforced so that the decisions made about what statistics to collect and publish, and what is said about the statistics when they are published, are not seen as being driven exclusively by Ministers' own agendas. It must be stressed here that it is not our intention to question the importance of meeting the statistical needs of Ministers and government departments. We simply wish to ensure that the needs of other bodies that perform important roles in the public and private sectors are given due weight.

- (c) There are, inevitably, occasions when the position that the National Statistician would wish to take on a controversial matter would bring him or her into disagreement with influential voices inside government. A statutory Statistics Commission would be a more effective supporter of the public interest under such circumstances. When the 'going gets tough', a non-statutory framework can be too easily ignored or sidestepped.
- (d) & (e) Statutory obligations are respected by civil servants and Ministers to a greater degree than undertakings in past White Papers that are often seen largely as a statement of the position as it was at some previous time. As discussed earlier in this report, the Statistics Commission believes that the *Framework for National Statistics* in particular contains a number of weaknesses and limitations. The combined effects of these weaknesses is that the current procedures and conventions fall short of the influence over the actions of officials that legislation can be expected to have.
- (f) Legislation reflects the will of Parliament and is not associated so directly with a particular administration. As it is the interests of Parliament and public in official statistics that new legislation would be seeking to protect, it is questionable whether anything less than legislation can ever do that satisfactorily.

Three models for legislation

4.4 In producing this report, we researched a variety of regulatory models, including those governing the work of the Information Commissioner, the Electoral Commission, the National Audit Office and the statistical legislation in several other countries. The Commission initially considered three possible models for UK legislation. Although we eventually rejected two of the three models, all three are set out in this report for completeness and so that the arguments for favouring one of these can be better understood. The key difference between the models is in the roles afforded to the National Statistician and a Statistics Commission. All three models require that the Statistics Commission would cease to exist in its current form. Two models involve a stronger Commission; one involves the integration of its functions into the Office for National Statistics.

4.5 The three models are set out briefly below and in full in Part 2. Part 2 also contains extensive notes on the models. The Statistics Commission has concluded that **Model 1** would be the most likely to achieve the desired objectives with minimum change. We **recommend** that Ministers take this proposal forward.

4

New legislation

THE COMMISSION'S RECOMMENDATION

Model 1

4.6 This model places the Statistics Commission on a statutory footing and gives it an explicit remit to promote compliance with a new Code of Practice drawn up by the National Statistician. The Commission is accountable directly to Parliament, thus increasing its actual and perceived independence. Under this model:

- A Commissioner is appointed by Her Majesty on advice from the Chancellor of the Exchequer.
- The Commissioner appoints the members of the Commission on advice.
- The Commission is supported by an advisory panel which includes producers and users to ensure that it takes account of all relevant interest groups in carrying out its functions, but is bound by none of them.
- Its remit is to promote compliance with the UN Fundamental Principles of Official Statistics and a revised Code of Practice.
- It will provide advice and consider complaints.
- It will have the role of approving the Code of Practice drawn up by the National Statistician and of approving a new quality labelling scheme for official statistics. (see paragraphs 3.24 – 3.26)
- Its powers extend to all parts of central government and to other key national public sector producers of statistics.
- Failure to co-operate with the Commission would result in an adverse report to parliament.
- The Commission will report to Parliament on failures to comply with the Code of Practice or with the UN Fundamental Principles.

Model 2

4.7 Under this model the Commission is placed on an independent statutory footing as described in Model 1. In addition, the Office for National Statistics becomes a non-ministerial Government department with the National Statistician as an office holder directly accountable to Parliament for certain of his functions. It retains broadly its current functions but gains greater independence. Responsibility for the Code of Practice and the quality labelling scheme rest with the National Statistician.

Model 3

4.8 Under this model the ONS is made a new non-ministerial Government department with a dual function: to carry out the functions allocated to the Commission under Model 1 (with the support of a non-executive board and an advisory panel) and the functions allocated to ONS under Model 2, providing a unified service which serves both users and producers. This model is the most radical of the three and requires the National Statistician to take on the role of the Commission both in relation to other government departments and the department that he heads. To enable him to do this effectively, the Commission believes he would need a non-executive board (possibly with its own secretariat) that is not involved in running ONS but advises on his role in enforcing the Code of Practice and implementing the quality labelling scheme across government. We also believe that he would benefit from the advice of an advisory panel to help him balance the interests of stakeholders. In addition he would, as now, have the support of the executive board that is responsible for the management of ONS. The proper alignment of the responsibilities of these top-level boards would need careful consideration.

Reasons for rejecting Model 2

4.9 Model 2 gives both the Commission and the National Statistician (as head of the Office for National Statistics) a statutory underpinning. Whilst this would strengthen the independence of both, there would be a risk of confusion about policy and operational lines of accountability. In particular, the functions of the National Statistician in relation to the statistical services in government departments other than ONS would not lend themselves to being put on a statutory basis and might suffer in consequence. In addition, as head of a non-ministerial government department, the National Statistician would lose his direct line of access to Treasury Ministers and might consequently lose some of his influence over statistical work in other government departments. We believe that this influence has been an important defence for good practice in the past. The gain in terms of perceived independence achieved by creating a non-ministerial government department is open to question; to the wider public a government department is a much like any other government department, whatever the lines of accountability. For these reasons, the Statistics Commission rejected Model 2.

Reasons for rejecting Model 3

4.10 Under Model 3 the merging of the Commission and ONS into one body under the direction of the National Statistician has the advantages of integration but may not deliver sufficient benefits in terms of confidence in the statistics produced by government departments other than ONS itself. The National Statistician's position in enforcing the Code of Practice in other government departments would not be

4 New legislation

strong. The need to maintain good working relationships across departmental boundaries in the interests of statistical production would undermine his or her ability to use the sanction of a report to Parliament to bring influence to bear. Also, ONS would be required to act as its own watchdog, responsible for identifying and correcting weaknesses. The difficulties of marrying the regulatory role with organisational management are well-evidenced elsewhere. In the view of the Commission, the National Statistician would be left to play too many roles – departmental manager, interdepartmental co-ordinator, chief adviser, independent adviser on the public interest – that sit uncomfortably together, and to do this without the day-to-day support of a departmental Minister. For these reasons the Commission rejects Model 3.

Reporting to Parliament

4.11 Our proposals involve a new statutory Commission reporting to Parliament. It has been assumed here that existing Parliamentary Select Committees will have sufficient interest in the issues for which the Commission is responsible to provide an effective mechanism for Parliamentary oversight. However, another option would be to extend the legislative provisions to include the establishment of a dedicated Committee – just as the Intelligence Services Act 1994 established the Intelligence and Security Committee. We have not however included the establishment of such a Committee in the current proposals.

Enforcement of the Code of Practice

4.12 Under our proposals, the ultimate sanction in the event of a government department ignoring the Code of Practice would be for the Commission to submit to Parliament, and publish, an adverse report indicating in what way the department had breached its statutory duty. Any further action would be for Parliament. But the expectation should be that such a step would be taken only rarely. There would be several preliminary steps that in practice should lead to resolution of incipient breaches of the Code.

4.13 The first step would be for the departmental head of profession to exercise his or her authority as the departmental expert on the Code and draw attention to a potential breach of statutory duty. If that was not enough, the National Statistician might add his weight to that judgement and draw in the Permanent Secretary head of the department who would in turn engage Ministers. If that still failed, the Statistics Commission would advise Minister that it proposed to act publicly. Only if that failed would a report to Parliament be required. We believe that this is a sufficiently powerful process to bring about strict adherence to the Code.

Role of the proposed Advisory Panel

4.14 Our recommendations include the establishment of an Advisory Panel to work alongside the Commission. Note 6 in Part 2 describes in formal terms the role that the proposed Panel would play. Key points are that it would encompass both producers and users of official statistics and that the National Statistician would be a member. In this context, ‘producers of official statistics’ is likely to mean senior statisticians from within ONS and other government departments whilst ‘users’ are likely to be leading experts from the established user groups, from local and central government, the Royal Statistical Society and academia. Their role would be to offer an expert perspective on a wide range of issues. We would expect the National Statistician to draw on their advice as well as play a leading role among the Panel members in advising the Commission.

4.15 The issues that it would be most appropriate for the Panel to address would typically be more technical matters on which interested parties took conflicting views. This might relate to decisions on the nature of the statistics needed to meet a specific user need, the form in which statistics were to be made available, or matters of quality or methods. The Panel would not have any power to act independently of the Commission or to impose its views on the National Statistician or government departments.

LEGISLATION TO BUILD TRUST IN STATISTICS

PART 2

LEGISLATIVE MODELS WITH NOTES

Model 1 – The Recommended Model

An Independent Statutory Commission for Official Statistics

Summary

This model replaces the existing Statistics Commission with a statutory Commission accountable directly to Parliament. The remit of this Commission is to promote good practice in the production and use of official statistics and in particular to promote compliance with the UN Fundamental Principles of Official Statistics and a Code of Practice (a revised version of the existing National Statistics Code of Practice). It will provide advice, draw up reports and consider complaints. The model refers to the 'National Statistician'. In this context, National Statistician is shorthand for the person who is the chief professional advisor to government on statistics, a role which we expect to continue. The Commission will have the role of approving the revised Code of Practice drawn up by the National Statistician and of approving the Quality Labelling Scheme. Its powers extend to all parts of central government and to other key public sector producers of statistics. There will be sanctions for failure to co-operate with the Commission. The Commission will report to Parliament on failures to comply with the Code of Practice or with the UN Fundamental Principles. Under this model, the Commissioner is appointed by Her Majesty on advice from the Chancellor of the Exchequer. The Commissioner appoints the members of the Commission on advice. The Commission is given an advisory panel which includes producers and users (a 'stakeholder advisory panel') to ensure that it takes account of all relevant interest groups in carrying out its functions, but is bound by none of them.¹

Key elements of Model 1

Structure and accountability

- The Commission becomes a statutory body^{2, 3} (an NDPB)⁴.
- It is given a new name⁵.
- It is given a stakeholder advisory panel⁶.
- It is made directly accountable to Parliament⁷.
- An independent appointments procedure is put in place⁸.

Part 2: Legislative models with notes

Overarching function

The Commission is given the overarching function of:

- promoting good practice in the production and use of official statistics⁹

and in particular of promoting compliance with:

- the UN Fundamental Principles of Official Statistics¹⁰ and
- the Code of Practice for Official Statistics¹¹.

The Commission's general power and specific duties on the Commission and on producers

In association with its function, the Commission is given a wide power to do what it sees fit in order to carry out its functions and in addition it is given the following specific duties¹²:

- In consultation with the advisory panel and the National Statistician, to draw up a strategic framework for the performance of its functions¹³.
- This is to be revised annually in consultation with the advisory panel.
- To report annually to Parliament¹⁴.
- To produce such reports as may be requested of it by Parliament from time to time¹⁵.
- To conduct such research and produce and publish such reports as it sees fit¹⁶.
- To provide advice to Ministers, the National Statistician and producers of statistics¹⁷.
- In consultation with the advisory panel, to advise in relation to and to approve:
 - the Code of Practice for Official Statistics drawn up by the National Statistician¹⁸
 - a quality labelling scheme for official statistics drawn up by the National Statistician¹⁹.
- To consider complaints regarding the quality and integrity of official statistics²⁰.
- In consultation with the National Statistician, to promulgate guidance for producers in relation to matters within its remit²¹.

All producers of Official Statistics are given the following duties:

- To have regard to the UN Fundamental Principles of Official Statistics and the Code of Practice in carrying out their functions²².
- To co-operate with the Commission and, in particular, to provide such information as the Commission may request. (Suitable provision is also made for the protection of confidential information)²³.

Specific powers

In association with the exercise of its functions and without prejudice to the generality of its powers the Commission is given the following powers:

- to monitor compliance by producers with the UN Principles and the Code of Practice²⁴
- to require information³⁰
- to carry out such other duties as may be allocated to it from time to time by statutory instrument²⁵
- to do such other things as are incidental and conducive to the carrying out of its functions.

Other key aspects of the proposed legislative model

Bodies and statistics within the remit of the Commission

The Commission is to exercise its function in relation to 'official statistics'. These are: all statistics produced by central government and certain key national public bodies²⁶.

- The list of bodies covered is included in the legislation and may be amended from time to time²⁷.
- There is an arrangement under which certain data published by relevant bodies such as their accounts may be exempted from the remit of the Commission or from the requirement to provide information²⁸.

Part 2: Legislative models with notes

Enforcement powers

There are sanctions for failure to comply with the duty to co-operate with the Commission and the National Statistician in the carrying out of their functions and in particular the duty to provide information²⁹.

Appointment of the Commission and the Advisory Panel

The Chairman of the Commission is appointed by HM on advice from the Chancellor of the Exchequer³¹.

The Chairman appoints the members of the Commission³¹ in consultation with the Chancellor.

The chair and members of the Stakeholder Advisory Panel are appointed by the Chairman in consultation with the National Statistician and must include representation from the following categories:

- Producers of Official Statistics
- Users of Official Statistics
- Professional organisations
- Academics/qualified experts.

Model 2

An Independent Statutory Commission for Official Statistics and a National Statistics Office independent of Ministers

Summary

Under this model, a new Statistics Commission is placed on an independent statutory footing as described in Model 1. In addition, the Office for National Statistics becomes a non-ministerial government department with the National Statistician as office holder directly accountable to Parliament. It retains broadly its current functions but gains a greater degree of independence from Ministerial control. Responsibility for the Code of Practice and the quality labelling scheme rest with the newly independent National Statistician³².

Key elements of Model 2

Structure and accountability

- The Commission becomes a statutory^{2,3} body (an NDPB)⁴.
- It is given a new name⁵.
- It is given a stakeholder advisory panel⁶.
- It is made directly accountable to Parliament⁷.
- An independent appointments procedure is put in place⁸.
- The Office for National Statistics becomes a non-ministerial government department headed by an office holder, the National Statistician, who is directly accountable to Parliament³³.

Overarching function

The Commission is given the overarching function of:

- promoting good practice in the production and use of official statistics⁹

and in particular of promoting compliance with:

- the UN Fundamental Principles of Official Statistics¹⁰ and
- the Code of Practice for official statistics¹¹.

The National Statistician, as head of the ONS, is given in statute broadly those functions he currently has under its Executive Agency Framework document issued in 1996 and the Framework for National Statistics issued in June 2000³⁴.

Part 2: Legislative models with notes

The Commission's general power and specific duties on the Commission and on producers

In association with its function, the Commission is given a wide power to do what it sees fit in order to carry out its functions and in addition it is given the following specific duties¹²:

- In consultation with the advisory panel and the National Statistician, to draw up a strategic framework for the performance of its functions¹³. This is to be revised annually in consultation with the advisory panel.
- To report annually to Parliament¹⁴.
- To produce such reports as may be requested of it by Parliament from time to time¹⁵.
- To conduct such research and produce and publish such reports as it sees fit¹⁶.
- To provide advice to Ministers, the National Statistician and producers of statistics¹⁷.
- To consider complaints as to the quality and integrity of official statistics²⁰.

The National Statistician is given statutory responsibility for the functions currently performed under the relevant framework documents³⁴. Also under this model it is the National Statistician who has responsibility for:³⁵

- drafting and promulgating the Code of Practice, in consultation with the Statistics Commission (the Statistics Commission to be advised in this by the stakeholder advisory panel)³⁶
- drawing up and administering a quality labelling (kite-marking) scheme for official statistics, in consultation with the Statistics Commission (the Statistics Commission to be advised in this by the stakeholder advisory panel)³⁷
- promulgating guidance, (in consultation with the Statistics Commission as appropriate)³⁸.

The National Statistician and all producers of official statistics are given a duty:

- to have regard to the UN Fundamental Principles of Official Statistics and the Code in carrying out their functions²²
- to co-operate with the Commission and in particular to provide such information as the Commission may request²³.

Specific powers

In association with the exercise of its functions, and without prejudice to the generality of its powers, the Commission is given the following powers:

- to monitor compliance by producers with the UN principles and the Code of Practice²⁴
- to request information³⁰
- to carry out such other duties as may be allocated to it from time to time by statutory instrument²⁵
- to do such other things as are incidental and conducive to the carrying out of its functions.

Other key aspects of the proposed legislative model

Bodies and statistics within the remit of the Commission and the National Statistician

The Commission is to exercise its function in relation to official statistics. These are:

- all statistics produced by central government and certain key public bodies²⁶.
- The list of bodies covered would be included in the legislation and may be amended from time to time²⁷.
- There is an arrangement under which certain data published by relevant bodies such as their accounts may be exempted from the remit of the Commission or from the requirement to provide information²⁸.

The National Statistician is to exercise his functions in relation to statistics produced by a different list of bodies, to reflect his current remit, which may be amended from time to time.

Enforcement powers

There are sanctions for failure to comply with the duty to co-operate with the Commission and the National Statistician in the carrying out of their functions and in particular the duty to provide information²⁹.

Appointment of the Commission and the Advisory Panel

The Chairman of the Commission is appointed by HM on advice from the Chancellor of the Exchequer³¹.

The Chairman appoints the members of the Commission in consultation with the Chancellor.

Part 2: Legislative models with notes

The members of the Advisory Panel are appointed by the Chairman in consultation the National Statistician and must include representation from the following categories:

- Producers of official statistics
- Users of official statistics
- Professional organisations
- Academics/qualified experts.

Appointment of the National Statistician

The National Statistician is appointed by the Chancellor of the Exchequer³⁹.

Model 3

A National Statistics Office with increased independence and a statutory role as the guardian of standards and independence in official statistics

Summary

Under this model, the ONS is made a non-ministerial Government department with a dual function:

- (1) to deliver its current functions
- (2) to carry out the functions allocated to the Commission under Model 1, so providing a unified service with expertise across a wide range of issues, serving both users and producers.

An appropriate degree of separation of the two functions is promoted through the requirement for an independent non-executive Board to advise in relation to the delivery of the 'commission' (good practice) functions. The stakeholder advisory panel is still established under this model⁴⁰.

Key elements of Model 3

Structure and accountability

- The Office for National Statistics becomes a non-ministerial government department^{33,41,42}.
- The National Statistician becomes the office holder at the head of the Department, answering directly to Parliament in respect of his good practice functions and to the Chancellor in respect of his ONS functions⁴³.
- In respect of his good practice function:
 - He is advised by a non-executive Board.
 - The Board and the National Statistician must take account in specific contexts of the advice given by the stakeholder advisory panel.

Overarching function

The National Statistician is given a dual overarching function:

- To provide a statistical service⁴⁴ for the benefit of:
 - government
 - business
 - the wider community.

Part 2: Legislative models with notes

This function would be broken down into a list of more specific functions in a Schedule, broadly mirroring the functions he currently has under the current Framework Documents. These could be amended from time to time by statutory instrument.

- To promote good practice⁴⁵ in the production and use of official statistics and in particular to promote compliance with:
 - the UN Fundamental Principles of Official Statistics¹⁰ and
 - the Code of Practice for Official Statistics¹¹.

New general power and specific duties on the National Statistician and on Producers

In association with his good practice function, the National Statistician is given a wide power to do what he sees fit in order to carry out his functions and in addition is given the following new specific duties:

- In consultation with the stakeholder advisory panel, to draw up a strategic framework for the performance of his good practice functions⁴⁶.
 - This is to be revised annually in consultation with the stakeholder advisory panel.
- To report annually to Parliament⁴⁷.
- To produce such reports as may be requested of him by Parliament from time to time⁴⁸.
- To conduct such research and produce and publish such reports as he sees fit⁴⁹.
- To provide advice to Ministers, and producers of statistics⁵⁰.
- In consultation with the stakeholder advisory panel, to draw up and promulgate:
 - the Code of Practice for official statistics⁵¹
 - a Quality Labelling (kite-marking) Scheme for official statistics⁵²
 - such other guidance as he considers appropriate⁵³.
- To consider complaints as to the quality and integrity of official statistics⁵⁴

All producers of official statistics are given the following duties²²:

- To have regard to the UN Fundamental Principles of Official Statistics¹⁰ and the Code of Practice¹¹ in carrying out their functions.

Specific powers

In association with the exercise of his good practice functions the National Statistician is given the following powers without prejudice to the generality of his powers:

- to monitor compliance by producers with the UN principles and the Code of Practice⁵⁵

- to require information³⁰
- to carry out such other duties as may be allocated to him from time to time by statutory instrument⁵⁶
- to do such other things as are incidental and conducive to the carrying out of its functions.

Other key aspects of the proposed legislative model

Bodies and statistics within the remit of the National Statistician for the purposes of his good practice function

The National Statistician is to exercise his good practice function in relation to 'official statistics'. These are: all statistics produced by central government and certain key public bodies⁵⁷.

- The list of bodies covered would be included in the legislation and may be amended from time to time⁵⁸.
- There is an arrangement under which certain data published by government departments etc may be exempted from the remit of the Commission or from the requirement to provide information, if they are not deemed to be official statistics.⁵⁹

Enforcement powers

There are penalties for failure to comply with duty to co-operate with the National Statistician in the carrying out of his functions⁶⁰ and in particular the duty to provide information to him³⁰.

Appointment of the National Statistician and the Stakeholder Advisory Panel

The National Statistician is appointed by HM on advice from the Prime Minister⁶¹.

The Chancellor appoints the members of the non-executive Board in consultation with the National Statistician.

The members of the Stakeholder Advisory Panel are appointed by the Commissioner in consultation with the National Statistician and must include representation from the following categories⁶²:

Producers of Official Statistics
Users of Official Statistics
Professional organisations
Academics/qualified experts.

Part 2: Legislative models with notes

Endnotes

1 General and Preliminary Points Concerning the Three Models

The policy objectives underpinning these proposals are set out in detail in the covering report. The Statistics Commission has, as a matter of principle, sought to avoid the need for machinery of government changes if possible – instead change is to be achieved by alterations to the existing institutional framework.

The Statistics Commission believes that its proposals will have most impact and be most successful if they are implemented throughout the United Kingdom. The exact requirements in relation to consultation and consent of the devolved authorities will depend on which model is adopted, and with what variations on the current proposals. Broadly speaking, however, it is understood that the consent of the Scottish Parliament and the Northern Ireland Assembly would be required and that there would need to be consultation with the Welsh Assembly before these proposals could be adopted on a UK wide level.

It is suggested that as part of any future consultation in relation to legislation of this kind, there should be detailed discussions with the devolved authorities as to the way in which they see these proposals meshing with their own initiatives governing statistics locally.

As set out in the report, the three models proposed are seen as being on a spectrum of possible institutional models. The models have the same objectives and the same key functions are conferred in each. It is the allocation of functions that alters.

In essence, Model 1 is a quasi-regulatory model under which a statutory body not responsible for delivery of public statistics is given a monitoring, advice and reporting role in relation to bodies responsible for delivery. Thus the key objectives are delivered by the creation of a statutory and independent watchdog. Model 2 builds on this basic model by also giving increased independence to the Office for National Statistics. Model 3 has no separate regulatory body, but proposes as per Model 2 statutory independence for the Office for National Statistics and gives it the functions performed under Model 1 by the watchdog body. The risks associated with self-regulation are minimised by structural change whereby the two functions are separated within the one organisation.

General Points Relating to Model 1

This Model involves a fundamental change in the role of the Statistics Commission. Currently the Commission has a non-statutory and purely advisory role. As the Framework for National Statistics (1st Edition, June 2000) makes clear, the current function of the Statistics Commission is to:

“...play a key role in advising on the quality, quality assurance and priority setting for National Statistics, and on the procedures designed to deliver statistical integrity, to help ensure National Statistics are trustworthy and responsive to public needs.”

Under Model 1, however, the Statistics Commission becomes a statutory “watchdog” with an overarching duty to promote good practice in the production and use of official statistics and in particular to promote compliance with the UN Fundamental Principles. It is given powers associated with this duty to monitor producers, to report, and to receive complaints.

This Model resembles a regulatory model with the Statistics Commission as the regulator and producers of official statistics (mainly government departments) as the regulated bodies. The paradigm of a regulatory regime is reinforced by placing the producers of official statistics under a duty to co-operate with the Statistics Commission and under a duty to supply it with

information, by making the Statistics Commission independent of Ministers and by it not being itself a producer of statistics. Unlike Model 3, where the National Statistician's dual role as both regulator and a key producer of official statistics creates the potential for an actual or perceived conflict of interest, Model 1 gives the Statistics Commission only one, quasi-regulatory role. This Model, unlike the other two, works on the assumption of the retention of the National Statistician as a civil servant accountable to Ministers.

This model provides for producers and users of official statistics, as well as other stakeholders, to have a role in helping to shape the regulatory agenda: producers will form part of the Advisory Panel which the Statistics Commission will have to consult when determining its Strategic Framework and in certain other contexts.

2 Legislation

Implementation of this Model will require legislation in the form of an Act of Parliament.

3 Statutory Footing

The Statistics Commission is currently a non-statutory body set up by the Crown in the exercise of its executive functions. The key policy objective underpinning the current proposals is to increase the actual and perceived independence and integrity of official statistics. Placing the watchdog body on a statutory footing serves to achieve that objective as follows:

(i) *Limiting the power of government to change the arrangements*

Except as provided in the legislation itself, the arrangements may only be altered by further legislation. This means the body itself and the public can be confident that it can pursue its remit without alteration by ordinary decisions of the Government. This should increase the actual and perceived independence of the new body.

(ii) *Giving stability*

The limits on alteration of the statutory framework also give stability to the arrangements which assists in effective delivery of the functions.

(iii) *Conferring status*

Putting the new body on a statutory footing confers status on the body which assists in building confidence in it in relation to the performance of its functions, and assists it in achieving co-operation with other bodies.

(iv) *Increasing clarity about roles and responsibility*

A statutory framework provides clarity with regard to roles and responsibilities thereby assisting with effective delivery of the functions conferred.

(v) *Conferring duties on third parties*

The statutory framework enables duties to be placed on third parties to co-operate with the new body where otherwise it would be dependent on voluntary co-operation from other public bodies. Putting the functions on a statutory basis gives a clearer underpinning for these other bodies in spending the time and money required to co-operate with the new body.

(vi) *Imposing penalties*

There is scope for penalties to be imposed for non co-operation with the Commission.

Part 2: Legislative models with notes

4 NDPB

The new body would fall into the broad category of bodies known as non-departmental public bodies (NDPBs). Broadly speaking, there are three different types of NDPBs: Executive bodies, which carry out a wide variety of administrative, regulatory and commercial functions; Advisory bodies, which are generally set up administratively by Ministers to advise them and their departments on matters within their sphere of interest; and Tribunals (including bodies with licensing and appeal functions). The new Statistics Commission would be an Executive Body.

Ministers are ultimately accountable to Parliament for NDPBs in terms of their overall effectiveness and efficiency. Where their department is the NDPB's sponsoring department, they will be under a duty to provide an explanation to Parliament of how far an NDPB is operating within its agreed management and financial controls. In this sense the Minister is accountable (under a duty to account), but not responsible, to Parliament for the overall efficiency and effectiveness of the NDPB.

The degree of independence of an NDPB from Ministerial control will depend on the nature of the function and the particular arrangements made in relation to it. It is proposed that the Statistics Commission would report directly to Parliament (see Endnote 7) but that there will be a Ministerial role in appointments (see Endnote 31).

5 A New Name

This Model recommends renaming the Statistics Commission. It is considered that a number of benefits will flow from such a step. If the new initiatives are to have the desired effect of increasing public confidence in official statistics then the public must be made aware of the new arrangements and the significance of these needs to be conveyed. Renaming the Commission can assist in this process. In particular renaming the Statistics Commission will signify to the public the break between the Statistics Commission's old functions and its new functions. A well-chosen name can communicate to the public the nature of the Statistics Commission's new functions. The new name should also highlight the Commission's increased independence and the significance of its role in promoting the integrity of official statistics.

6 An Advisory Panel

Whilst official statistics are by definition generally only produced by public bodies, those for whom such statistics are an important resource extend of course beyond the public sector. Significant non-governmental users of official statistics include financial institutions, academia and the media.

Recognition of the importance of the role of official statistics in modern society can be found in paragraph (1) of the recital to the UN Fundamental Principles of Official Statistics (the 'UN Fundamental Principles'), which states that:

“...official statistical information [are] an essential basis for development in the economic, demographic, social and environmental fields and for mutual knowledge and trade among the States and peoples of the world”.

The UN Fundamental Principles recognise that there are a number of groups, in addition to government, that can legitimately be said to be stakeholders in any process that seeks to ensure the integrity of the production and use by the public sector of official statistics. The Model seeks to reflect this by setting up an Advisory Panel which would include representatives of these stakeholders groups.

The function of the Advisory Panel will be to provide advice to the Statistics Commission and the National Statistician in relation to their functions. The involvement of the stakeholder groups in this way should increase the quality and effectiveness of the service provided by the Commission as well as inform the actions of the National Statistician.

It is envisaged that the Advisory Panel will have as its Chairman a member of the Statistics Commission. Other members of the Advisory Panel are likely to include the National Statistician, in an ex officio capacity, as well as representatives of other producers and users of official statistics.

The Statistics Commission would be placed under a statutory duty to consult with the Advisory Panel in relation to certain documents and decisions. Additionally, it might choose to refer other matters to the Advisory Panel for consideration. If the Statistics Commission were obliged to refer a matter to the Advisory Panel, it would be under a legal obligation to actually take into account the views expressed by the members of the Advisory Panel. If the Statistics Commission did not at least consider the views of the Advisory Panel after consulting it then the Statistics Commission would be amenable to judicial review.

7 Parliamentary Accountability

As explained at Endnote 4 above, the degree of control exercised by Ministers in relation to NDPBs varies. It is possible for example for Ministers to retain a power to intervene in the management of an NDPB and for the NDPB to be made accountable to Ministers (see, for example, the power of the Secretary of State, pursuant to s76(1) of the Housing Associations Act 1985, to issue directions to the Housing Corporation as to how the Corporation is to exercise its functions). Given the intention at the heart of these proposals is to increase the actual and perceived independence of official statistics, it is proposed under this Model that Ministers should not retain any power to intervene in the Statistics Commission's operations.

As the Statistics Commission itself is not elected, it is essential that it be made subject to some form of democratic scrutiny. It is proposed therefore that the Commission be made directly accountable to Parliament. This is to be achieved by placing the Statistics Commission under an obligation to lay before Parliament an annual report on its activities, and by giving the Statistics Commission a duty to comply with ad hoc requests from Parliament for reports.

8 Independent Appointments Procedure

It is considered that in order for the Statistics Commission to be perceived as independent and to command public confidence, those appointed to serve as Members of the Statistics Commission must, both individually and in aggregate, be seen to be independent of those bodies that the Statistics Commission is to monitor and report on. The Commissioner for Public Appointments has produced a Code of Practice governing Ministerial Appointments to Public Bodies. This Code sets out a requirement that Ministerial appointments to public bodies must always be subject to scrutiny by independent assessors. Paragraph 2.7 of the Code sets out what it is that makes an independent assessor 'truly independent'. These criteria of independence can be adapted and applied to determine whether those individuals, who will serve on the Statistics Commission, as well as its membership in aggregate, are sufficiently independent of the producers of official statistics. These criteria, as adapted, are:

- (a) An individual candidate for appointment to the Statistics Commission should not have an operational role within a body which is within the remit of the Statistics Commission.

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- (b) An individual candidate for appointment to the Statistics Commission should not normally have been employed in an operational capacity in a body which is within the Statistic Commission's remit in the twelve months preceding appointment. And
- (c) As long as paragraph (b) is observed, persons who have been formerly employed in an operational capacity in a body being regulated by the Statistics Commission are eligible for membership of the Commission but such persons should not form the majority of the members of the Commission.

It is intended that the appointments procedure should also reflect a degree of separation from Ministerial influence. The procedures for appointments are set out in detail at Endnote 31 below.

9 The Overarching Function

This duty is the principal and overarching function imposed on the Statistics Commission. As it is intended that this duty will be imposed by statute, the Statistics Commission will be legally obliged to act in furtherance of this obligation. As this is its overarching function it would generally be unlawful for the Statistics Commission to act in a manner that was inconsistent with this duty.

The duty is expressed as one of 'promoting' good practice in the production and use of official statistics as opposed to being expressed as a duty to 'attain' good practice. This is not the only example of a statutory duty phrased in this manner. Section 47(1) of the Freedom of Information Act 2000 provides that one of the functions of the Information Commissioner under that Act "shall be...to promote the following of good practice by public authorities..."

As part of its overarching duty to promote 'good practice' the Statistics Commission shall be under a duty to promote compliance by public bodies with:

- (a) the UN Fundamental Principles and
- (b) the Code of Practice for Official Statistics.

10 The UN Fundamental Principles of Official Statistics

The United Nations' Statistics Commission adopted the UN Fundamental Principles of Official Statistics on 14 April 1994. The Fundamental Principles adopted by the UN Statistics Commission are an amended version of a document adopted by the UN's Economic Commission for Europe on 15 April 1992. This document in itself was produced by an earlier session of the UN Economic Commission for Europe's Conference of European Statisticians.

The UN Fundamental Principles are not legally binding upon Member States to the United Nations but seek to set out a set of internationally agreed principles governing the production of official statistics.

It is the intention of these proposals to seek to give greater effect to these at a national level. At the same time it would not be appropriate to seek to make the principles binding as they currently stand. It is therefore proposed that the Commission be given a duty to promote compliance with the UN Fundamental Principles as recited in an Annex to the legislation. Provision could be made for the Annex to be amended by secondary legislation to bring it up to date with any amendments to the UN Fundamental Principles at an international level.

11 The Code of Practice for Official Statistics

Under these proposals The Code of Practice for Official Statistics (“the Code of Practice”) will replace the National Statistics Code of Practice, and its associated protocols, issued by the National Statistician in September 2002 and subsequently. It is expected that the Code of Practice will be a revised version of the existing National Statistics Code of Practice but which is drafted to reflect the new institutional arrangements and the new powers and duties associated with them as well as to address other matters requiring clarification under the current framework.

12 General Power and Specific Duties

It is necessary to set out exactly what powers a statutory body can exercise, as a statutory body only has the power to do those things that Parliament has either expressly or implicitly granted it the power to do. A wide power is given here to permit the Statistics Commission to do anything that it sees fit in order to enable it to carry out its various functions. (This wide power is effectively constrained as it can only be exercised consistently with the Statistics Commission’s overarching functions of promoting good practice in the production and use of official statistics and, in particular, promoting compliance with the UN Fundamental Principles of Official Statistics and the Code of Practice. It is also given some more specific powers which are discussed below.

It is also here given a set of *duties*, which it must comply with in pursuing its broad remit. Further duties may be added to the list by statutory instrument (see Endnote 25).

13 The Strategic Framework

These proposals are structured around a wide remit. The aim of the requirement for a strategic framework is to achieve focus within that remit without losing flexibility and to give increased transparency as regards the achievement of the objectives. It is to be a high level document that sets out the Statistics Commission’s objectives for the time being, and a programme for achieving those objectives. By requiring the Commission to set out a written programme Model 1 obliges the Statistics Commission to plan its regulatory agenda and also provides a set of objectives against which the Commission’s performance can be judged at the end of the year. The Framework is to be revised annually.

In requiring the Strategic Framework to be settled after consultation with the Advisory Panel and the National Statistician this Model allows key interest groups to have a role in shaping the Commission’s agenda.

14 Reporting to Parliament Annually

The requirement to report to Parliament annually is not unique to this Model. Other public bodies with comparable functions are placed under such a duty, for example the Audit Commission (see Paragraph 14 of Schedule 1 to the Audit Commission Act 1998), and the Information Commissioner in respect of his functions under the Freedom of Information Act 2000 (see s49(2) of that Act).

Reporting to Parliament is an important mechanism by which the Statistics Commission can be subject to democratic oversight and be held to account for its actions. The existence of Parliamentary scrutiny can be expected to assist in making the Statistics Commission’s actions more effective. (see further Endnote 7).

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15 Producing *Ad Hoc* Reports in Response to Requests from Parliament

The duty to prepare *ad hoc* reports as and when requested to do so by Parliament seems to be unique amongst regulatory bodies. It is intended that this duty allow Parliament to direct some of the Statistics Commission's focus. Costs implications would clearly have to be addressed.

16 To Conduct Such Research and Produce Such Reports As It Sees Fit

This duty effectively specifies one important way in which the Commission is to seek to achieve its objectives – by conducting research and producing reports. The research will be necessary to help it identify best practice in terms of the production of official statistics. The production and publication of reports on this research would be a valuable tool for disseminating and thereby promoting good practice amongst bodies which produce and use official statistics.

A similar duty/power to conduct studies relevant to the regulator's field of regulation is often granted to regulators. For example, the Audit Commission has a power to institute studies that will allow it to make recommendations for improving economy or efficiency (see s33 of the Audit Commission Act 1998).

17 To Provide Advice to Ministers, the National Statistician and Producers of Official Statistics

Ultimately, it is the Statistics Commission that shall monitor compliance with 'good practice' and, more specifically, with the UN's Fundamental Principles and the Code of Practice. It is therefore logical that a body that is within the remit of the Statistics Commission can obtain advice from the Statistics Commission in respect of compliance with 'good practice', the UN Fundamental Principles and the Code of Practice, where necessary. This also enables the Commission to continue its current advice role but from a new position of independence.

18 Approval of the New Code of Practice

One aspect of the Statistics Commission's overarching duty is an obligation to promote compliance with the 'Code of Practice for Official Statistics'. Additionally this Model places an obligation on those bodies within the remit of the Statistics Commission to have regard to the Code of Practice when carrying out their functions: it goes without saying that this is an attempt to ensure that good practice guidelines are taken seriously by producers. This Model does not make the drafting of the new 'Code of Practice' a matter for the Statistics Commission. Instead the drafting of the Code will be for the National Statistician as the person with overall professional responsibility for National Statistics.

The Statistics Commission will be responsible for approving the Code of Practice. As part of the approval process the Statistics Commission will be obliged to consult its Advisory Panel. In this way the Model seeks to ensure that the Statistics Commission, as watchdog, and the Advisory Panel, which includes representatives of users of official statistics, will be able to influence the shaping of the Code of Practice to ensure that it contributes to the achievement of the purposes of the Commission.

19 The Quality Labelling Scheme

It will be for the National Statistician to draw up a Quality Labelling Scheme (or kite marking scheme) in consultation with the Statistics Commission. There will be a wide discretion in settling the nature of the scheme. The details of the scheme would be agreed between the National Statistician, the Statistics Commission and its Advisory Panel.

20 Consideration of Complaints

The Statistics Commission would have the duty to receive complaints regarding the quality and integrity of official statistics. The Statistics Commission would stipulate the complaints procedure to be followed. The Commission would then be under a duty to consider and investigate the complaint. The Commission will also have appropriate powers to seek the disclosure of information held by a producer of official statistics which it can use to further its investigations if necessary. After investigating the complaint the Commission would be able to determine the complaint and make any findings of fact and make recommendations to the body about which the complaint was made. It is anticipated that a summary of the details of the complaints received by the Commission together with a brief outline of how they were determined would be submitted by the Statistics Commission to Parliament with its annual report.

21 Producing Guidance

The Statistics Commission would have a duty to promulgate, in consultation with the National Statistician, guidance addressed to bodies that produce official statistics on achieving independence and integrity of official statistics. This power might be exercised to supplement details contained in the Code of Practice and would focus on matters within the Commission's remit.

22 The Duty to Have Regard to the Code of Practice and the UN Fundamental Principles of Official Statistics

The duty to have regard to the Code of Practice and the UN Fundamental Principles is important to the regime created by this Model. The success of any regulatory or quasi-regulatory regime is dependent upon those who are regulated or monitored being subject to obligations to act in a certain manner. The Model therefore has a two-pronged approach – imposing a specific duty on the bodies regulated to have regard to the Code and the Principles, whilst giving the Statistics Commission the role of promoting compliance with them.

23 The Duty to Co-operate With the Commission and to Provide it With Information

This duty requires the producers of official statistics to co-operate with the Statistics Commission and to supply the Commission with any information it requests. The second part of this duty is the corollary of the Commission's power to request information from producers of official statistics. This duty will assist the Statistics Commission in investigating complaints and in monitoring compliance by producers with the UN Principles and the Code of Practice (see Endnote 30).

Detailed consideration needs to be given to the interaction of such powers with other legislation and principles, including in particular data protection legislation. It is not considered appropriate to carry out this detailed work in the context of this stage of this exercise.

Whilst the producers of official statistics would be under an obligation to supply the Statistics Commission with information, appropriate statutory safeguards could be put in place to protect the information so received from onward transmission or use for any other purpose than that for which it was supplied. Again the detail of such provisions would require extensive research not appropriate in the context of this exercise.

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24 Monitoring

This power allows the Statistics Commission to consider producers' compliance with the UN Fundamental Principles and the Code of Practice. It is in essence a power to investigate compliance.

25 Carry Out Duties Conferred on It

The power to confer additional functions to the Statistics Commission would be exercised by the Chancellor of the Exchequer by Statutory Instrument after consulting with the Statistics Commission. This provides useful flexibility without the need for Parliamentary authorisation. This power could not be exercised so as to confer a function unrelated to the main duties in the legislation.

26 National Statistics

There is no single agreed definition of what 'national statistics' actually are. Due to this uncertainty the three Models set out in this Annex do not use this concept. Instead the Models envisage the remit of the Statistics Commission or, in respect of Model 3, the ONS as applying to 'official statistics'. 'Official statistics' may be defined as those statistics produced by bodies that are within the remit of the Statistics Commission (see Endnote 27) and which are not produced as a result of an exempted function (see Endnote 28).

27 Bodies Within the Remit of the Statistics Commission

The remit of the Statistics Commission will only extend to those bodies which produce official statistics. Rather than try to produce a definition of those bodies which produce official statistics it is proposed that legislation would define a producer of official statistics by way of reference to a Schedule attached to the Act, which would list all those bodies to whom the Act applied. The Act would also contain a provision granting the Chancellor of the Exchequer the power to amend the list contained in the Schedule by Statutory Instrument so as to keep this list up-to-date. The Chancellor would not have a free hand in adding or removing bodies from the list contained in the Schedule. The Act would contain various criteria that would have to be met before the Chancellor could add or remove a body from the list. These could range from a wide power to add or remove to a very limited power, say to remove bodies which have ceased to exist. It would be appropriate for this to be an affirmative resolution SI.

Legislative provisions of this sort are quite common. For example the Freedom of Information Act 2000 only applies to those bodies listed in Schedule 1 to that Act and the Secretary of State is granted a power to add or remove public bodies from Schedule 1. Another example would be the Public Records Act 1958 which as well as containing a definition of certain bodies whose records are 'public records' also provides that all the records of any body listed in Schedule 1 to that Act are public records. Additionally, the Act grants the Lord Chancellor the power to amend that list.

The benefits of adopting a list approach to determining whether a body is a body that produces official statistics are certainty and simplicity. A person or public body seeking to establish whether a body is within the remit of the Statistics Commission and whether they are obliged to have regard to the Code of Practice and the UN Principles can simply check whether that body is listed in the Schedule to the Act implementing the Model.

28 Exempt functions

A body whose production of official statistics is within the remit of the Statistics Commission, and which carries out a separate function or task that might appear to be statistical in nature but which it regards as beyond the remit of the Commission (for example, compiling aspects of its own financial accounts) would be able to declare that task as exempt from the obligation to respect the Code of Practice. It could do this either in advance or retrospectively when the question arose. However, its decision to treat that task as exempt would be liable to investigation at the discretion of the Commission and the obligation to provide information to the Commission would extend to the declaration of exemption. The Commission would not have a specific power to oblige the body to treat a particular function as being within its remit but the duty to co-operate with the Statistics Commission in the discharge of its functions would allow the Commission to report to Parliament any exemption it held to be unreasonable as a failure to comply.

29 Enforcement Powers

This Model imposes upon the producers of official statistics a duty to supply the Statistics Commission with any information it requests and a duty to co-operate with the Statistics Commission in the discharge of its functions. Without the presence of a sanction for failure to comply with these duties, producers of official statistics could decline to comply with their obligations under the Act without consequence. This Model therefore ensures that there is a sanction for non-compliance.

When considering the nature of possible sanctions it is important to remember that the sanctions need to be sufficiently weighty so as to deter non-compliance whilst at the same time recognising that the bodies that will be subject to the sanctions will be public bodies.

The forms of sanction available to other bodies that have functions in relation to Government Departments vary in terms of their severity. For example s54 of the Freedom of Information Act 2000 provides that a failure to comply with various notices issued by the Information Commissioner may, in England and Wales, be referred to the High Court, with that Court able to treat the non-compliance as a contempt of court. The maximum penalty for contempt of the High Court is either two years' imprisonment or a fine. At the other end of the spectrum the Parliamentary Commissioner for Administration has no power to enforce his decisions and the only sanction for non-compliance with his recommendation is that a public body provide a complainant with a remedy is the risk of adverse publicity. The Audit Commission can publish information regarding contraventions of auditing obligations, save where it concerns a health service body (s.51 ACA).

It is envisaged that only limited enforcement measures will be required and that the main means by which producers will be encouraged to comply with their duties under the new legislation will be via the Commission's wide powers to report upon producers' compliance.

30 To Require Information

Good access to information is clearly key to the delivery of high quality statistics. At the same time proper protections have to be put in place for the protection of data, taking into account the relevant data protection legislation framework. These draft models acknowledge that this area needs to be addressed whilst accepting also that this is a very technical and sensitive area which will require further research and discussion once the principles have been agreed.

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31 The Appointment of the Statistics Commission

The appointment of the Commission will occur in two stages. Firstly, the Chancellor of the Exchequer will appoint a Chairman of the Commission. The Chairman would then appoint the remaining members of the Commission after consulting the Chancellor. The perceived benefit of this appointments mechanism is that it reduces the level of influence the Government has over the composition of the Statistics Commission, whilst the duty to consult with the Government before appointments are made and the fact that the Government will remain responsible for appointing the Chairman of the Commission means that the Government is not totally locked out of the process of selecting members of the Commission.

Consideration has been given to alternative methods of appointing the members of the Commission. One alternative, and the more traditional method of appointment, would be for the Minister in charge of the Statistics Commission's sponsoring department, in this case the Treasury, to make all of the appointments to the Commission. This method was felt, however, to give too much influence to Treasury officials, which is potentially one of the bodies regulated, over the composition of the Commission.

Another possible alternative would be for the Chancellor of the Exchequer and other Government bodies, perhaps including the devolved administrations, to jointly appoint the members of the Statistics Commission. Although not a statutory requirement, the members of the Audit Commission have in recent times been appointed by the Deputy-Prime Minister and the Secretary of State for Health acting jointly.

A further possibility would be for the Chancellor of the Exchequer and various other bodies, potentially even non-governmental bodies such as the Royal Statistical Society, to each be given responsibility for appointing or nominating persons for one or more places on the Statistics Commission.

In so far as a Minister appoints any member of the Statistics Commission, the appointment procedure would have to comply with the Commissioner for Public Appointment's 2001 Code of Practice for Ministerial Appointments to Public Bodies. This sets out the regulatory framework for the public appointments process. Its purpose is to provide departments with a clear guide to the steps necessary to secure a "fair, open and transparent process that produces a quality outcome and can command public confidence" (s.1.5 Code of Practice). The seven fundamental principles on which the Code is based include Independent Scrutiny ("no appointment will take place without first being scrutinised by an independent panel or by a group including membership independent of the department filling the post") and Openness and Transparency ("the principles of open government must be applied to the appointments process, its working must be transparent and information provided about appointments made").

32 General Points relating to Model 2

This Model builds on Model 1 by affording increased independence to the Office for National Statistics as well as setting up the new Statistics Commission. Thus under Model 2, broadly speaking the new statutory Statistics Commission has the functions it has under Model 1 (see Endnote 1). The Advisory Panel has the same role as it has under Model 1. However, the significant difference between Model 1 and Model 2 is that the Office for National Statistics is also placed on a statutory footing and given increased independence from Ministers, much as the National Audit Office was granted independence from the Treasury pursuant to the National Audit Act 1983. Since under this Model the ONS has more independence it also takes over some of the roles allocated to the Statistics Commission under Model 1.

Under this Model, the National Statistician is charged with drafting the envisaged 'Code of Practice for Official Statistics', drawing up a Quality Labelling Scheme for official statistics and the promulgation of any additional guidance. Under this Model he must consult the Statistics Commission prior to issuing his 'Code of Practice', drawing up a Quality Labelling Scheme or promulgating any additional guidance, but the final approval does not rest with the Commission.

33 The Office for National Statistics

This Model envisages the Office for National Statistics (ONS) becoming a non-ministerial government department. That is to say it will remain a government department, part of the Crown and staffed by civil servants. However at its head will be an office holder (the National Statistician) rather than a Government minister. This gives a degree of political independence from government whilst retaining some of the benefits of being a government department. This structure emphasises the professional character of the work performed within the ONS. As such the ONS and the National Statistician will cease to be formally accountable to the Treasury for their operations. Achieving the split between the ONS and the Treasury should be reasonably straightforward. A useful example of legislation that achieved just such a split is contained in the National Audit Act 1983 that separated the National Audit Office from the Treasury and made that Office solely accountable to Parliament for its operations.

Severing the link between the ONS and the Treasury will have the result that the ONS, one of largest producers of official statistics, will become independent of political control. One of the benefits of the ONS being made independent of political control is that there will, it is hoped, be greater public confidence in the statistics it produces. Additionally, as it is independent of Ministers it is hoped that there will be less disquiet at the Office of National Statistics having a major role in formulating the regulatory landscape envisaged by this Model, for instance by producing the Code of Practice and other *ad hoc* guidance, which it is in an eminently good position to draw up, from its position of specialist knowledge.

34 The National Statistician's Current Functions

It is envisaged that for the most part the National Statistician's current functions will be continued under this Model. Currently his functions are set out in two documents. These are:

The ONS 'Framework Document'

The Office of National Statistics' was formed in April 1996 when the Central Statistical Office merged with the Office for Population, Censuses and Surveys. The ONS Framework document was issued at this time. The Document sets out the status and governance of ONS and describes its objectives and functions, relationship with the Treasury and the functions of the National Statistician as its Director. The 'Framework Document' describes the Director of the ONS (the National Statistician) as the 'Chief Executive' of the ONS. (see paragraph 1.2). What this actually means is further explained at section 4 of the Framework Document. Here it is explained that the Director of the ONS is responsible for the operation of the ONS in accordance with its aims and functions. He is responsible for:

- determining its structure
- the responsibilities of its staff
- appointments to the ONS' Advisory Committee
- in consultation with the Chancellor non-executive appointments to the ONS' Management Board

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- promoting public confidence in official statistics
- the methodology used by the ONS in producing its statistics
- the collection of data for use by the ONS and
- the publication of reports by the ONS.

Additionally the Framework provides that the Director of the ONS is to be the Head of the Government Statistical Service. In this role the Director is the Government's Chief Adviser on statistics and is responsible for:

- promoting the provision across government of coordinated, high quality, cost effective and easily accessible statistics
- promoting the integrity and validity of official statistics and maintaining a code of practice facilitating the development of methodologies, classifications and standards, and information systems
- facilitating the development of dissemination and marketing arrangements for official statistics
- ensuring an effective contribution is made to international statistical developments
- advising departments on the range and quality of official statistics and matters relating to organization and value for money
- assisting departmental Heads of Profession for statistics in the provision of accurate and relevant statistics
- resolving interdepartmental disputes over statistical matters and
- advising departments on the design and conduct of government statistical surveys to businesses including the means to minimize compliance costs for survey respondents.

Finally the National Statistician as Director of the ONS is also the Head of Profession for government statisticians and is responsible for maintaining central personnel and staff development functions to enhance the availability of skilled professional statisticians across government.

The Framework for National Statistics

HM Treasury issued this Document in June 2000 in conjunction with the Ministers in the devolved administrations responsible for the production of National Statistics. This document established the framework for the production and use of official statistics now known as 'National Statistics'. 'National Statistics' are not exhaustively defined in this document but at paragraph 1.1 it is said that they include the public access databases and publications produced by the Office for National Statistics and many of the key public interest statistics produced by other government departments. This document sought to set out the functions / roles of the various bodies involved in the production of 'National Statistics' including Ministers, the Statistics Commission and the National Statistician. To a limited degree this document restates the functions already granted to the National Statistician in his role as Director of the ONS. Additional functions and roles granted to the National Statistician by this document are:

- The National Statistician is the Head of National Statistics.
- The National Statistician is the UK Government's chief professional adviser on statistical matters.

- The National Statistician has responsibility for the professional quality of the outputs comprising National Statistics.
- The National Statistician is charged with maintaining and publishing a National Statistics Code of Practice.
- The National Statistician as Head of National Statistics has the following functions on a UK basis. He or she will:
 - establish the planning framework for National Statistics and the appropriate National Statistics committee structure for delivering planning and management functions, and make appointments to these committees
 - produce a coherent high-level programme for National Statistics that reflects the needs of users and which brings together the key elements of statistical work programmes across government, and present this programme to the Statistics Commission
 - establish quality assurance processes for National Statistics including a programme of thorough reviews of key outputs at least every five years with the involvement of external expertise
 - be responsible for definitions and methodology of National Statistics within the framework of international agreements and conventions, and within the restrictions of administrative systems
 - promote the integrity and validity of National Statistics and understanding of statistical issues, and the use and interpretation of statistics
 - Within the framework of departmental statistical work programmes set professional standards for National Statistics, including standards for release arrangements and quality assessment, and has the authority to determine whether or not a statistical output meets those standards
 - facilitate and promote dissemination and marketing arrangements for National Statistics
 - resolve interdepartmental disputes over issues of statistical integrity or methodology
 - work with Heads of Profession in Scotland, Wales and Northern Ireland, to meet users' needs and to promote comparable statistics across the UK – in particular, this will be essential for statistics required to be submitted on a UK basis to the EU or international bodies
 - work with Heads of Profession across the UK to ensure effective sharing of statistical information between the UK government and the devolved administrations in accordance with the Memorandum of Understanding and the associated Concordat on Statistics.

There is clearly scope for consolidating and clarifying the National Statistician's current functions. Broadly speaking however, Model 2 envisages that the ONS/National Statistician will continue to have its/his current functions. Some of them will of course be exercised in association with the new Statistics Commission. Detailed consideration has yet to be given to the legislative structure for allocation of functions to the National Statistician under this Model. One option, by way of example, would be for the key functions to be set out in the legislation itself, with a power to confer further functions by statutory instrument and with reference to a new framework document which would detail responsibilities in relation to the various functions. These are matters which would be determined in detailed consultation with the ONS if this Model were preferred.

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35 Responsibility for Drafting the Code of Practice and the Quality Labelling Scheme

Under this Model the National Statistician is charged with drafting both the 'Code of Practice', the Quality Labelling Scheme and with producing any additional *ad hoc* guidance. The National Statistician is to consult with the Statistics Commission in relation to the drafting of these documents but, unlike under Model 1, the final approval of the Statistics Commission is not required. The Statistics Commission in turn will take the views of the advisory panel to ensure that all relevant interest groups have an input into these key documents.

36 The New Code of Practice

Under this model, the Statistics Commission continues to have an overriding duty to promote compliance with the 'Code of Practice for Official Statistics'. The primary responsibility for drawing up the Code of Practice rests with the National Statistician in consultation with the Statistics Commission (which is to be advised by the Advisory Panel). Under this Model the Statistics Commission is not required to approve the Code of Practice before it is promulgated. However the Statistics Commission continues to have an overriding duty to promote compliance with the Code. (cf. Endnote 18).

37 The Quality Labelling Scheme

Under Model 2 the responsibility for drawing up and implementing the Quality Labelling Scheme rests with the National Statistician. He is under a duty to consult with the Statistics Commission in doing so although the final approval does not rest with the Commission. Since the implementation of the scheme rests with the National Statistician and the ONS is itself a body which could seek accreditation it is proposed that independent moderators would be appointed to oversee the implementation of the scheme. (cf. Endnote 19).

38 Producing Guidance

The National Statistician will have the statutory function of promulgating guidance to bodies that produce official statistics. This power may be exercised to supplement or flesh out details contained in the 'Code of Practice'. It can also be employed to provide sector specific guidance, which it would not be suitable to include in the 'Code of Practice'. (cf. Endnote 21).

39 Appointment of the National Statistician

It is envisaged that the Chancellor of the Exchequer in consultation with the Statistics Commission will appoint the National Statistician. The appointment of the National Statistician would have to comply with the Commissioner for Public Appointment's 2001 Code of Practice for Ministerial Appointments to Public Bodies. (See Endnote 8 for further details of the Code of Practice for Ministerial Appointments to Public Bodies.)

40 Basic Points Concerning Model 3

This Model takes the functions envisaged under the other models and brings them under one roof at the Office for National Statistics. The ONS is placed on an independent footing and measures are proposed whereby the dual function of watchdog and producer can be effectively separated within the organisation. The benefit of this arrangement is efficiency; provided the functions can be effectively separated within the organisation, Model 3 means less bureaucracy and removes the risk inherent in the other models of overlap of functions between the ONS and the Statistics Commission. The expertise within the ONS would be a good base from which to build the delivery of the dual function. Clearly however self-regulation does not offer the same policy gain in terms of increasing public perception in the quality and independence of national statistics.

Under this model the ONS is placed under two very distinct duties to reflect its two roles. The first duty is a duty as a producer of official statistics to provide a statistical service for the benefit of the government, business and the wider community. The second duty is the same as the overarching duty placed on the Statistics Commission in the previous two models, namely a duty to promote 'good practice' in the production and use of official statistics by government.

41 Statutory Footing

The National Statistician is, except in respect of his functions as Registrar-General for England and Wales, not an office holder in his own right but a Civil Servant of Permanent Secretary rank that is appointed by the Crown to administer the day to day functions of the ONS. The Office for National Statistics is currently a non-statutory Ministerial Government Department accountable to the Chancellor of the Exchequer in his role as Minister for National Statistics. In law neither the National Statistician nor the ONS has an existence independent of the Minister for National Statistics. The ONS and the National Statistician do not have any legal powers of their own but instead exercise the powers of the Crown as delegates of the Minister for National Statistics. As with all government departments, the existence of the ONS is a matter of administrative convenience. The Crown, in exercise of its prerogative, is free to change the functions of the ONS or abolish it. Subject to any remedies arising from employment law the Crown is also free to remove the National Statistician. (cf. Endnote 3)

42 NDPB

See Endnote 4 for details on NDPBs. In terms of the three-fold classification of NDPBs outlined at Endnote 4, the ONS would be an Executive Body. Ministers are ultimately accountable to Parliament for NDPBs in terms of their overall effectiveness and efficiency. The degree of independence of an NDPB from Ministerial control will depend on the nature of the function and the particular arrangements made in relation to it. It is proposed that in respect of some of its functions the ONS would report directly to Parliament (see Endnote 43) but that there will be a Ministerial role in appointments (see Endnotes 61 and 62) and some accountability to Ministers in respect of other of the ONS' functions. As the purpose of this Model is to achieve a new degree of independence from Ministers, it is proposed that Ministers should not retain any general power to intervene in the running of the new ONS.

43 Parliamentary Accountability

See Endnote 7 for details on Parliamentary Accountability generally. It is proposed under this Model that the accountability of the new ONS should be split in respect of the two functions: in respect of the 'watchdog' function, it is proposed that the body should be made directly accountable to Parliament. However, in respect of its traditional role, it is considered that the appropriate line of accountability is to HMT, although the relationship will be at arms length as there will be minimal powers of intervention.

Parliamentary accountability is put in place by subjecting the ONS to an obligation to lay before Parliament annually a report on its activities as well as by granting Parliament the power to request of the Statistics Commission *ad hoc* reports.

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44 The National Statistician's Function as a Producer of Official Statistics

Under this Model the National Statistician is given two distinct functions. The first is a function to provide a statistical service for the benefit of government, business and the wider community. This function would be broken down into sub-functions which would reflect broadly the National Statistician's functions under the 'ONS Framework Document' issued in 1996 and the 'Framework for National Statistics' issued in June 2000. See Endnote 34 for further details of the functions of the National Statistician under these documents.

It is currently intended that as many of the functions of the National Statistician as are currently contained in the 'Framework for National Statistics' are continued when the National Statistician and the ONS are made independent of Ministers and placed on a statutory footing. It is possible, however, that further consideration will have to be given as to the compatibility of the National Statistician retaining some of his roles and functions under this document after the ONS becomes a non-ministerial government department.

45 The Duty to Promote Good Practice Under Model 3

The content of this duty will be the same as the duty imposed on the Statistics Commission in Models 1 and 2. See Endnote 9 for further discussion of the content of this duty.

46 The Strategic Framework Under Model 3

The ONS' Strategic Framework will perform the same functions as the Statistics Commission's Strategic Framework does in respect of Models 1 and 2. See Endnote 13 for further discussion of the functions of the Strategic Framework.

47 Parliamentary Accountability Under Model 3

Parliamentary Accountability of ONS will only arise in respect of certain of ONS' functions under this Model. Parliamentary Accountability in this Model will perform the same function as Parliamentary Accountability in the context of Models 1 and 2. See Endnote 7 for further discussion of Parliamentary Accountability.

48 The Duty to Report to Parliament Under Model 3

This function is similar to the function that is imposed on the Statistics Commission under Model 1. See Endnote 15 for further details.

49 The Duty to Conduct Research Under Model 3

This function is similar to the function that is imposed on the Statistics Commission under Model 1. See Endnote 16 for further details.

50 The Duty to Promote Advice Under Model 3

This function is similar to the function that is imposed on the Statistics Commission under Model 1. See Endnote 17 for further details.

51 The Content and Function of the Code of Practice Under Model 3

It is anticipated that the content and function of the Code of Practice will not differ significantly from the content and function of the Code of Practice under Model 1. (see Endnote 18 for further details).

52 The Quality Labelling Scheme Under Model 3

It is anticipated that the Quality Labelling Scheme envisaged as part of this Model will operate in a similar way to the Quality Labelling Schemes envisaged in respect of Models 1 and 2 (see Endnote 19 for further details). Under this Model the good practice arm of the ONS will be responsible for drawing up and administering the QLS. Since it also has a statistics production function, this means that the ONS will be devising and administering a scheme to assess the quality of its own statistics. It is therefore proposed under this Model that an independent body should be appointed to moderate the assessments made by the ONS.

53 The Duty to Promulgate Guidance Under Model 3

It is anticipated that the guidance provided by the ONS under this Model will have a similar content and function to the guidance that is envisaged as a part of Model 1 (see Endnote 21 for further details). The National Statistician would have to promulgate such guidance only after consultation with the Advisory Panel. Guidance might seek to flesh out details contained in the 'Code of Practice'. It can also be employed to provide sector specific guidance that it would not be suitable to include in the 'Code of Practice'.

54 The Duty to Consider Complaints Under Model 3

The nature of this function is not expected to be any different from the similar function that is imposed on the Statistics Commission under Model 1. See Endnote 20 for further details.

55 The Duty to Monitor Compliance Under Model 3

This function is similar to the function that is imposed on the Statistics Commission under Model 1. See Endnote 24 for further details.

56 The Power to Confer Additional Functions Under Model 3

This power to confer additional functions on the National Statistician will operate in a similar manner to the power to impose additional functions on the Statistics Commission's under Model 1. See Endnote 25 for further details.

57 The Scope of Official Statistics Under Model 3

'Official statistics' in this Model would be defined by reference to statistics that are produced by bodies that fall within the remit of the National Statistician in the same manner as 'official statistics' are defined in Models 1 and 2. See Endnote 26 for further details

58 The Bodies Within The Remit of the ONS Under Model 3

This shall operate in the same manner as the power to list those bodies within the remit of the Statistics Commission under Model 1. See Endnote 27 for further details.

59 Exemption of Certain Functions from the Duty to Provide Data Under Model 3

This shall operate in the same manner as certain functions are exempted in respect of Model 1. See Endnote 28 for further details.

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60 Enforcement Under Model 3

The powers of enforcement shall operate in a similar manner to the powers of enforcement that are conferred upon the Statistics Commission under Model 1. See Endnote 29 for further details.

61 Appointment of the National Statistician

It is envisaged that the National Statistician will be appointed by the Queen on the advice of the Prime Minister. The appointment of the National Statistician would have to comply with the Commissioner for Public Appointment's 2001 Code of Practice for Ministerial Appointments to Public Bodies. See Endnote 31 for further details of the requirements of the Code of Practice for Ministerial Appointments to Public Bodies.

62 Appointment of the Advisory Panel

It is envisaged that the Chancellor of the Exchequer will appoint the Advisory Panel after consultation with the National Statistician. The appointment of the members of the Advisory Panel will have to comply with the Commissioner for Public Appointment's 2001 Code of Practice for Ministerial Appointments to Public Bodies. See Endnote 31 for further details of the requirements of the Code of Practice for Ministerial Appointments to Public Bodies.

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ANNEXES

ANNEX 1

The Need for New Statistical Legislation for the United Kingdom

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Summary

In 2000 the Government put in place new arrangements for the governance of Official Statistics in the United Kingdom, creating National Statistics, the post of National Statistician and the National Statistical Commission. Subsequently the National Statistics Code of Practice was published and consultation continues on the underpinning Protocols to this Code. All of this was achieved through the mechanism of a White Paper and the Government required the Commission to review the need for statistical legislation after two years. This review is in process.

This paper is written to inform public discussion on whether or not statistical legislation is needed and, if so, on the nature and content of that legislation.

A brief account of the background to the current position is given. The Government's stated intention is to create an 'independent statistical service' and a discussion of the meaning of independence in the context of Official Statistics and governance arrangements is provided. Recent international experience is described and the Statistics Acts of a number of other countries are used to distil the key features of Statistics Acts in other countries. The arguments for and against possible legislation are described.

The administrative and democratic arrangements in the United Kingdom are very complex with devolved governance arrangements for Scotland, Wales and Northern Ireland in many policy areas for which Official Statistics are essential. At the same time other policy areas are retained to the UK Parliament in London. Additionally many statistical responsibilities are carried out within policy departments rather than in a centralised Statistical Office as in many countries. All of this raises issues about the basic structure and nature of a Statistics Act for the United Kingdom and how it might be framed.

Whether or not a Statistics Act is desirable for the United Kingdom does depend strongly on the legislation being well-framed. There are a number of key issues on which Parliament would need to develop an informed view and these are set out towards the end of the paper.

Keywords: Statistical Legislation, Official Statistics, Independence of Official Statistics, Statistical Integrity, Confidentiality, Statistical Policy

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Annex 1

1 Introduction

In 1997 a Labour Government was elected with a manifesto commitment to create an 'independent statistical service' and in due course published a consultation document: *Statistics A Matter of Trust* (Cm 3882, 1998) and subsequently a White Paper: *Building Trust in Statistics* (Cm 4412, 1999) setting out the Government's policy for the creation of 'National Statistics', the creation of the post of National Statistician and the setting-up of a National Statistical Commission to be independent of Ministers and the producers of National Statistics. Following this a Framework for National Statistics (National Statistics, 2000) was published setting out the roles and responsibilities of the key players and most recently a Code of Practice has been published (National Statistics, 2002) together with two subsidiary protocols that establish the professional standards that will be applied to statistical work. In due course more protocols will be issued.

The origins of this whole initiative were rooted in concerns about the independence of the statistical service and the need to ensure that official statistics are produced to the highest professional standards, of adequate quality for the intended purposes and are free from political interference.

The emphasis on the word 'Trust' in the titles of the Consultation document and the White Paper emphasise that the issue is one of statistical integrity and hence public confidence in statistics produced.

When the Government established a Framework for National Statistics one particular issue was set aside. This is whether or not a framework established by White Paper is sufficient or whether statistical legislation is needed.

Unlike the vast majority of other countries the United Kingdom does not have a Statistics Act to provide a legislative foundation for Official Statistics. There are a number of pieces of legislation covering activities such as economic statistics, the Census and the registration of vital events but there is no comprehensive Statistics Act. A large number of countries throughout the world have passed Statistics Acts in the last decade and the IMF's Data Quality Assessment Framework includes an assessment of the legislative basis as an integral part of the assessment of a country's statistical output. Similarly the European Union's assessment of the statistical framework within candidate countries included a detailed assessment of the strength of the legislative base within each country.

It is understandable that countries from the former Soviet block should enact statistical legislation because of the enormous changes since 1990 but many other countries, including a significant number of EU member states have also established or updated their Statistics Acts.

The Government asked the National Statistical Commission to wait two years (i.e. until Autumn 2002) and then review and report on this issue. The Commission launched the first phase of a consultation process in 2002.

This paper is intended to set the context for the question of legislation and to inform public debate on the issue.

2 The Nature of Independence

The Government's stated intention is to build public confidence and trust in the statistics produced since these are used as a cornerstone of public policy and the democratic process itself. Statistics are used in almost all aspects of society: by policy makers to develop and monitor public policy, by the business community for decision making, by Parliament and the public to monitor the performance of Government itself and to inform the democratic process. It is essential that all users have confidence and trust in the statistics produced and that an independent National Statistical Service has a duty to serve not just the government of the day but all users.

Public confidence and trust is a matter of perception. No external user can verify the rate of growth of the economy, the level of inflation or the number of crimes that occur. These and many other statistics about aspects of society are produced by official statisticians. Since the statistics themselves are not independently observable the perception of trustworthiness depends on two factors: the framework in which statistics are produced (the legal and administrative setting and the culture of public administration in the UK) and the perception of the professionalism, culture of public service to society and level of expertise available within the government statistical service itself. Both of these factors are essential and interrelated. It is the first of these: the legal and administrative setting that is the main focus of this paper although the other will be referred to.

Almost all National Statistical Services are part of their country's governmental structure and so are not wholly independent of government. In particular they depend upon the government of the day for financial provision. Hence it is important to set out what independence for the statistical service means.

Freedom from political interference does not mean that a statistical service takes no account of the government's statistical needs and policy issues. On the contrary good public administration contributes to the well being of all members of society and good public administration depends on good, trustworthy official statistics. The statistical service has a duty to support this. But at the same time citizens use official statistics as a window on the performance of government and it is essential that the service operates in a professionally independent manner, is free from inappropriate political influence *and is perceived to be so*. There are a number of key areas where international best practice is particularly concerned to demonstrate that no undue political interference exists. In these areas professional independence is regarded as essential. The main areas are:

- ⌘# The choice of concepts, definitions, methodologies and data sources to underpin statistics on particular aspects of society.

It is well known that the choice of data collection mechanism, concept or definition can affect the statistical results and therefore the choice is regarded as a professional statistical matter. In turn the statisticians have a professional duty to be open about the choices made, to adhere to international standards and best practice where appropriate and to operate a policy of openness and transparency about methods with all users.

- ⌘# The priority for statistical programmes of work within the budget available.

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If the needs of all users are to be taken into account then the choice of priorities within the resources available should rest with the professional statisticians. It would be inappropriate for a Minister to say that the National Crime Survey, for example, should be cancelled since such a decision could be influenced by the extent to which the results create political difficulties for the Minister. In turn the statisticians have a duty to consult all users about priorities and to justify the choices made in an open, transparent manner.

- €# The release of statistical outputs including the form, content and timing of the release.

These matters should be seen to be free of political influence if they are to command public confidence in the statistics produced. This independence includes the choice of statistical analyses to undertake, the choice of statistics to present, the use of graphs and tables as required, the text used to inform users including the interpretation of the statistics and appropriate commentary. In turn the statisticians have a professional duty to operate clear release policies which will be adhered to whatever the political implications of the statistics to be released and will keep users informed by pre-announcing when statistics will appear. The timing and nature of the release should promote the stability of financial and other markets, an informed public debate and as level a playing field as possible for all users.

- €# That Ministers and civil servants who are not legitimately involved in the production of National Statistics should have no influence, and be seen to have no influence, over the preparation and dissemination of National Statistics.

In practice this means that access to statistical work in progress is restricted to the staff involved and that others have access to the results when they are made available to all users.

- €# Data collected for statistical purposes should be kept confidential and used for these purposes only.

Statistics of high quality need as complete and accurate a response from sampled units as possible. To achieve this respondents must be sure that the confidentiality of the data provided will be protected and they will not be used for non-statistical purposes.

- €# The right and duty of the statistical professionals to comment freely on statistical matters.

If public confidence is to rest on the professional independence of the statistical service then it is essential that this independence is demonstrated. In a real sense the National Statistician's comments may, from time to time, cause the government of the day discomfort and that is the price to pay to reinforce public confidence in the professional independence of the statistical service. Hence in professional matters statisticians should be free to comment publicly. In turn the statisticians should restrict their comments to the statistical issues and should not stray into, for example, policy issues.

Note that the arguments in favour of professional independence are couched in terms of benefit to the wider user community and to the democratic process. But there are very real benefits to Ministers and the Government as a whole too. National Statistics are a cornerstone of much of public policy and Ministerial public accountability. It is not in any Minister's interest that each time a policy statement is made or a measure of performance produced the general reaction is to doubt the veracity of the statistical information and by extension to doubt the honesty and integrity of the Minister and the government statement. Public debate should focus on the policy issues and not the validity of the statistics. Hence there are clear benefits to Ministers if National Statistics command public confidence and trust. To achieve this they must be professionally independent of Ministers and policy officials and be seen to be so.

International practice, underpinned by the UN Fundamental Principles (1994), is to create a clear separation between Professional and Ministerial responsibilities. In almost all countries this separation is underpinned by legislation.

3 Governance Arrangements

Almost all National Statistical Services are part of their country's governmental structure and so are not wholly independent of government. In particular they depend upon the government of the day for financial provision. Mongolia is a very rare example of a country in which there is a direct link between the National Statistics Office and the Parliament.

Model A: Statistics as part of the executive arm of Government

In general the National Statistical Office (NSO), which is commonly a separate government department, will be the responsibility of a Minister who is accountable to Parliament for its performance. The level of funding provided to the NSO is a matter for Ministers. In the large majority of countries, where legislation exists, the professional and ministerial responsibilities are separated and the National Statistician (the Head of the NSO) will be accountable to Parliament for the discharge of the statutory professional functions. These are described in detail in section 8 and the Annex.

The National Statisticians accountability for his/her statutory responsibilities is usually achieved through an Annual Report to Parliament and through the appearance as required at Select Committees.

Model B: The Parliamentary Model for Statistics

Note that there are other views about the best governance arrangements for statistics. One view is that complete independence calls for a statistical service totally independent of Government, reporting directly to Parliament. One set of such arrangements might mirror those for the National Audit Office but there are others. The essence is that the Statistical service should be directly responsible to Parliament and totally independent of the government. It would be directly dependent on Parliament for financial provision.

The main argument in favour of the Model B: The Parliamentary Model is that it is as independent from Government as one could realistically achieve. The main argument against is that the statistical service is much more than an audit function. It is argued that such arrangements would detach statistics from the policy process and hence make them less

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relevant. This would be to the disadvantage of well-founded public policies and public administration. It may also impede the extent to which the independent statistical service can access administrative systems and influence their content for statistical purposes. It is also argued that such an arrangement is likely to create the need for a parallel statistical service within government to provide statistical analysis for policy purposes.

In addition the Parliamentary model would not remove any possibility of political interference in professional statistical matters. There would be as strong a need to separate the professional statistical responsibilities from the inappropriate interference of parliamentarians as there is from Ministerial and policy official interference in Model A.

This paper is based on the assumption that any Statistics Act would be based on Model A: the UK statistical service remaining an integral part of government machinery. If this were not the case many of the issues raised would still be relevant.

4 International Experience

These issues are not confined to the United Kingdom and there is much recent experience in other countries to draw upon. In 1994 the United Nations adopted the Fundamental Principles of Official Statistics. These set out 10 key principles:

1. That Official Statistics impartially serve democratic societies: the government, the economy and the public right to information.
2. That the National Statistical Office (NSO) shall determine methods and procedures following professional considerations, scientific principles and professional ethics.
3. Information should be presented on the sources and methods.
4. NSO's have the right to comment on false interpretations.
5. NSO's decide on the statistical sources taking regard of quality, timeliness, costs and response burden.
6. Individual data (from people, businesses or other institutions) collected for statistical purposes should protect the confidentiality of the respondent.
7. The legal and administrative framework should be made public.
8. Within a country there should be co-ordination of agencies producing Official Statistics.
9. International concepts, classifications and methods should be used.
10. There should be bilateral and multilateral co-operation on statistical matters across countries.

These have strongly influenced a large number of countries that have enacted statistical legislation since 1994 and a number of Acts (including Article 258 of the EU Treaty agreed at Amsterdam) make specific reference to the UN Fundamental Principles of Official Statistics. Around the Fundamental principles a body of best practice has been built up collated by the UN Statistics Division. In addition translations into English of statistics legislation for more than 50 countries is available (<http://unstats.un.org/unsd/goodprac/>). The striking thing is that almost all of these countries have had Statistics Acts or significant legislation in the last 10 years. One would of course expect this in central and eastern European countries because of the political changes since 1989 but at least 10 western European countries have also passed Statistics Acts or significant amendments in this period. Section 8 and Annex 1 contains a summary of the key elements contained in the Statistics Acts of other countries.

The United Kingdom is subject to existing EU Law and this can be divided into two categories.

The first mirrors in a very general way parts of the legal framework that might be expected within a country. Article 258 of the Amsterdam Treaty establishes the process of co-decision (the Council and the European Parliament) for the production of statistics where necessary for the performance of the activities of the Community. It also states that the production of statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality and shall not be a burden on economic operators. The Statistical Law (17 February 1997) refers to a Community Statistical System: comprising Eurostat, National Statistical Services and other statistical producers) and establishes Eurostat as the central authority. It establishes the process for determining the Programme of Work and incorporates the UN Fundamental Principles into EU law. It also establishes basic principles and practices for dissemination and establishes a legal basis for statistical confidentiality at the European level.

The Treaty and the Statistics Act provide a very basic legal framework but do not establish the key roles and responsibilities at the member state level. This is a matter for each member state to determine.

The second type of EU statistics law is very different. It relates to precise specifications for the concepts and methods to be used for key statistical indicators (mainly economic). This was done to impose as common a set of definitions and methodologies as possible on member states to ensure international comparability of the statistical results. It was largely driven by the needs of the Maastricht Treaty and the urgency with which the framework for monetary union was created. The key requirements reflected the needs of the European Union and the European Central Bank. More recently the need to monitor the Stability and Growth pact have maintained the impetus for detailed regulations.

In national legislation the Statistics Act provides a framework for the production of official statistics but leaves all methodological issues as the professional responsibility of the Head of the National Statistical Office. There are two very good reasons for this. First it is required under the UN Fundamental Principles to assure professional independence. Second concepts and definitions are refined and developed over time, international standards and best practice are improved. When these matters are set in law in a detailed way it can be a major impediment to further improvement.

In practice, in the case of the EU economic measures, the definitions and methods were almost always determined through a committee procedure involving the Heads of all National Statistical Offices. But the detailed nature of much European statistical law may create a problem for the future. Under the co-decision arrangements a direct role for the Council of Ministers and the European Parliament in detailed methodological issues is assured and this is directly contrary to the UN Fundamental Principles.

5 The Nature of a Statistics Act for the United Kingdom

The statistical system in the United Kingdom is very complex. At its heart is the Office for National Statistics, which is a separate government department headed by the National Statistician who is a Permanent Secretary. But in addition there are large numbers of staff

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producing National Statistics in many other Government Departments. These staff members are sometimes contained in statistical units and sometimes in mixed units with economists and/or other analysts and social researchers who have no responsibility for producing National Statistics. Staff producing National Statistics may report directly to non-statistician civil servants. Just as the National Statistician is the Head of the Statistical Profession for all members of the Government Statistical Service throughout the UK so in each department there is a designated Head of Profession with a duty to promote and defend professional integrity within the specific department and with a professional responsibility to the National Statistician. In this way an attempt is made to create a common culture and common professional standards across all civil servants involved in statistical production throughout government.

In addition there has been devolution of power from the UK Parliament in Westminster to a separate Parliament for Scotland and Assemblies for Wales and Northern Ireland. These bodies have elected members and exercise responsibility for a wide range of policies and public services within the devolved territory. As a result Statistics is partly a 'reserved power' (e.g. statistics in relation to the Economy or Defence for which responsibility remains with the UK Parliament) and partly a 'devolved power' (e.g. statistics in relation to Health or Education) with accountability to the Scottish Parliament and the Welsh and Northern Ireland Assemblies as appropriate. Even in devolved policy areas there is a need also to ensure that UK-wide statistics are consistent and coherent although the extent to which this occurs in practice is patchy. Additionally there is a need to ensure that the UK as a whole meets the statistical requirements of the European Union.

Most Statistics Acts in other countries are focussed on the Central Statistical Office (CSO) where the act places responsibilities on the CSO as a defined institution and on its Head (Director General, President, National Statistician). In many statistics acts reference to other statistical producers within Government (as exists to a much larger extent in decentralised statistical systems like the UK) is limited to giving the National Statistician a power to co-ordinate across these producers, to draw up an integrated annual work programme and sometimes to ensure that international standards are adhered to. Where, as in the UK, there is significant statistical activity embedded in various government departments it is difficult to frame legislation in such a way as to protect the professional independence of the statistical producers through a legislative model based on departments as entities. It would be virtually impossible for a UK Statistics Act, for example, to distinguish in organisational terms between two civil servants in a Government Department, one of whom was engaged in the production of National Statistics and the other not. In many respects a UK Statistics Act would need to cover the work of statistical producers in various departments but not other staff.

Hence a Statistics Act would probably have to follow the same logic as the Framework Document. Certain people (Minister for Statistics, other Ministers, National Statistician, perhaps Heads of Profession) would have to be created as statutory posts and given statutory powers and responsibilities and the powers to delegate these to discharge their functions. For example at present the National Statistician is not a statutory post but the post of Registrar General for England and Wales (another of the National Statistician's functions) is. This post was created in 1837 when the statutory basis for the registration of vital events (births, marriages and deaths) was established. Since 1841 all censuses (and arguably most of the social statistics collected in the country) have been conducted under the statutory

responsibilities of the Registrar General. In fact there are three Registrars General: one for England and Wales, one for Scotland and one for Northern Ireland.

To illustrate the way in which the National Statistician might exercise a statutory power through other departments as well as the Office for National Statistics we consider the confidentiality of statistical information which under the UN Fundamental Principles must be used for statistical purposes only and not for administrative purposes. Hence there is a need to exclude civil servants who are not involved in the statistical production processes from access to the data on individuals and businesses etc. If statutory powers to collect the data, to process these and to determine the form, content and timing of statistical releases was placed on the National Statistician then he/she would give delegated authority to designated staff (the statistical producers) within a government department who are involved in the production of statistics for this purpose. Such staff would be legally bound and accountable to the National Statistician for this delegated function – for example to ensure statistical data confidentiality, that no inappropriate access or use occurred and that no influence on the statistical process was exerted by Ministers or other officials. Hence it would be possible to draw a legal boundary around the statistical producers within a Government Department to ensure statistical confidentiality and to demonstrate freedom from inappropriate political influence.

Note that the statistical producers identified in this way are much fewer than the whole of public administration and need not include staff in many public sector organisations who produce data that feeds into the statistical system (e.g. schools, hospital trusts, police services and others). These data providers can be viewed in precisely the same way as those who respond to private sector business surveys are. They are not part of the statistical system but respondents to its data collection inquiries. The subsequent data validation and compilation into usable statistics is carried out by the statistical producers. A general or even legal obligation (with penalties) on all public servants to provide responses to statistical inquiries that are accurate and truthful when required by the National Statistician would be helpful as concerns over hospital waiting lists, ambulance service response times and recorded crime data demonstrate.

The statutory responsibilities between the National Statistician, the devolved administrations and the Heads of Profession in these would need to be set out as would the accountability mechanisms for the National Statistician and the Heads of Professions to the Scottish Parliament and Welsh and Northern Ireland Assemblies. Such arrangements would require the legislative support of the devolved bodies.

If Statistical Legislation was enacted it would require parallel legislation in the United Kingdom Parliament as well as the Devolved bodies for Scotland, Wales and Northern Ireland.

6 Is a Statistics Act necessary?

Given that the Government has recently published a Framework for National Statistics it might be argued that a Statistics Act is unnecessary. The United Kingdom is virtually alone among developed countries (and the great majority of developing and transition countries too) in not having a Statistics Act. But there are many other arguments that could be developed in support of a Statistics Act. The most telling are:

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- ⌘ A White Paper may be regarded as the creature of the current administration. There is very little to prevent the intention being eroded over time: particularly as changes of administration occur.
- ⌘ A Statistics Act would be much more powerful than the current arrangements and would create a framework which would apply to all future administrations and could not be changed without Parliamentary approval.
- ⌘ In the current arrangements all the powers and responsibilities of the National Statistician are delegated from ministers, and ministers have agreed the extent of these delegations. A Statistics Act would ensure that the powers and responsibilities of the National Statistician were determined by Parliament on a statutory basis rather than being devolved from Ministers at their discretion.
- ⌘ Hence a legal basis would strengthen public confidence in the independence and integrity of National Statistics.
- ⌘ The arrangements for statistics are not high on the agenda of individual Ministers and Departments and without the force of law the duties and responsibilities placed on key players may be lost sight of.
- ⌘ In effect a Statistics Act would help to change the culture of the relationship between the producers of National Statistics and Ministers, special advisors and other civil servants in a way that would strengthen the professional independence of statistics and the public perception of this. In effect an Act would constrain the actions of both statisticians and those who were not part of the statistical production process.
- ⌘ The Government's intention when introducing the current arrangements was to strengthen the professional independence of statisticians and to alter the relationships between statistical producers, Ministers, special advisers and policy officials. Such culture change takes a long time to implement effectively and needs constant championing. A statistics act could help to implement the changes that the Government intended.
- ⌘ In particular a Statistics Act could:
 - ⌘ Safeguards the role and professional independence of National Statistics in Law.
 - ⌘ Improves safeguards for the protection of confidential information.
 - ⌘ Provide scope to regulate compliance.
 - ⌘ Allows greater use of administrative records for statistical purposes.
 - ⌘ Strengthen the authority to coordinate the whole system.
 - ⌘ Place a duty on public sector respondents to provide accurate and truthful data in response to inquiries from the National Statistician.
 - ⌘ Brings the UK into line with other countries (UK is virtually alone in having no overarching legislation for statistics).
 - ⌘ Establish the National Statistics Commission, its responsibilities and its independence in Law.
 - ⌘ Hence would do more to assure quality and integrity over time.
 - ⌘ Additionally the current legal basis for statistics is piecemeal and out of date. Some statistical powers, including those concerning the Census, relate to the Registrar General. A Statistics Act would give an opportunity to repeal earlier legislation and to modernise what legal base there is.
- ⌘ An alternative argument might be that a Statistics Act is unnecessary and that the recently established arrangements are adequate. A number of the arguments for this position are the reverse of those given above. But in particular:

- ⚡ If Legislation mirrors the current Framework then why bother?
- ⚡ It would be essential that Government was truly persuaded of the need if sound legislation were to be guided through the Parliamentary process.
- ⚡ Legislation is an uncertain road with an unclear outcome
- ⚡ There is a real risk that some undesirable arrangements will be set in Law.
- ⚡ The complexity of the legislation required given a decentralised statistical system and devolved administrations.

An alternative argument might be that the necessary protection to statistical activities could be provided through a general Civil Service Act rather than through a specific Statistics Act. This proposition would need careful consideration. This paper argues that there are special and additional responsibilities placed upon Official Statistics that call for separation from Ministers and other civil servants who work under the civil service code. It is quite possible that two civil servants (one a statistician and the other not) may have separate roles and duties and, while both operate properly under a common civil service code, these may bring the two into conflict. Any attempt to cover statistical issues under a general code would require a way of recognising the special needs of statistics and drawing a distinction. Nonetheless, using a Civil Service Act to place a duty on all civil servants and special advisors to respect the professional independence of statistical producers would be beneficial even if a separate Statistics Act was considered necessary.

The arguments in favour of statistical legislation do depend on it being good legislation that supports the objectives. Poor legislation may do more harm than good and may enshrine in legislation factors that undermine statistical independence and public confidence for the foreseeable future. Hence the legislative process needs to be as informed as possible.

7 Would a Statistics Act guarantee adequate resources and quality?

Public confidence in National Statistics depends upon more than the legislative or administrative framework in which they are produced. It also requires that they are produced with adequate quality for the primary purposes, adopting international standards and best practice wherever possible. The staff involved must adopt the highest professional standards and the resources need to be adequate for the task. The financial resources provided must be consistent with the range and quality of statistics needed.

It is not possible to legislate in a direct way that (i) all statistics will be of high quality and that (ii) the Government will always provide adequate resources.

We first consider quality. A modern statistical system is a large and complex operation. Quality that is adequate at one point in time for a particular output may erode because new uses emerge for which the quality is inadequate, new international standards are developed or data sources deteriorate because of changes in society. For example the development of e-commerce and the growth in intangible products delivered electronically (such as software and music) may raise issues about the adequacy of statistics that have been of high quality in the past or the need to develop new statistical measures that will describe the new economic developments. Official Statistics cannot stand still since if they do their relevance and quality will deteriorate. A continuing process of development and renewal is needed. More prosaically most countries experience from time to time some failure of the statistical process leading to statistics being published that are wrong.

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Legislation cannot guarantee quality but it can place a statutory duty on statistical producers to promote professional standards, to maintain quality evaluation processes, to adhere to international standards, to maintain a critical mass of core skills and to promote a culture of continuing professional development (CPD) for all staff. Professional standards will demand that methods are soundly based and explained in a transparent way to users.

Similarly, legislation cannot guarantee that the statistical service will be adequately resourced. The provision of funds will always be a Ministerial responsibility for which the Government are accountable to Parliament; just as it is for major expenditure programmes such as Health and Education. It is inevitable that over time the level of financial support will fluctuate depending on the pressures on public expenditure generally, the pressure of other priorities and the emphasis that the Government of the day allocates to statistical information and evidenced-based policies. This issue is compounded by a decentralised statistical system as exists in the United Kingdom since the funding decisions are fragmented between Ministries. It is common to see parts of the statistical system being better resourced than others even if from a global perspective the relatively deprived parts of the statistical system have a stronger case. This is almost inevitable in a fragmented funding regime. Alternatively some may argue that the fragmented funding system is a strength; in effect the statistical system has diversified funding sources and even in times of relative hardship some parts of the system will be protected.

Legislation cannot guarantee adequate levels of funding. But it can require that the total picture be more transparent: that the financial support for statistics be reported to Parliament in a consolidated way so that the decisions that Ministers are accountable for are made more transparent. The requirement that the National Statistician produce a consolidated high level statistical programme covering the whole of National Statistics is one vehicle for this. It could be strengthened by requiring that major user needs that are not provided for be specifically identified and that omissions due to lack of financial provision be flagged. This, together with a responsibility on the Statistical Commission to monitor and comment on the level of resources allocated to statistical work would greatly improve the ability of Parliament to be informed.

Section 8.1 contains an extension of the discussion concerning funding in relation to the scope of National Statistics.

8 What would a Statistics Act contain?

Annex 1 contains a description of the key elements distilled from other statistics Acts. Where appropriate an *italicised* comment provides supplementary information or commentary on the relevance to the United Kingdom.

In the main the provisions would be consistent with the arrangements set out in the White paper (Cm 4412, 1999) but an Act would provide the benefits listed in the previous sections.

The key elements are:

- €# Establish professional independence and consistency with the UN Fundamental Principles and the EU reference in the Amsterdam treaty.
- €# Establish the National Statistician as a statutory post with roles and responsibilities based on the current Framework Document (National Statistics, 2000): Authority to:
 - o collect, collate and analyse data and publish statistics and related materials.

- determine concepts, definitions, methods and choice of data sources.
- determine the form, content and timing of statistical releases.
- gain access to administrative sources for statistical purposes.
- manage the Office for National Statistics and, in particular, allocate resources and priorities within the budget provided.
- speak publicly on statistical issues.

And duty to:

- establish processes of user consultation and to prepare a work programme for submission to the Commission.
 - maintain the confidentiality of data and ensure its use for statistical purposes only.
 - report to Parliament.
- ## Establish the National Statistics Commission as a statutory body.
- ## Identify the Minister for National Statistics and role and responsibility.
- ## Place responsibilities on other Ministers who have responsibility for staff producing National Statistics: e.g. to decide the level of financial provision, to create an environment in which the statistical producers can exercise their professional functions, to ensure that statistical production is professionally independent and free from political interference, to require the Head of Profession to support the National Statistician in the exercise of his/her duties.

There are however a small number of significant issues for which criticisms of the current arrangements have been made or where further consideration may be needed.

8.1 The Scope of National Statistics

National Statistics: the statistical work that the current Framework Document is intended to underpin is defined in terms of particular outputs (e.g. all statistics produced by ONS and lists of statistics produced by other departments and nominated by the Minister responsible for inclusion). This means that if a Statistics Act was introduced it would remain for Ministers to determine whether or not the statutory provisions applied to a particular statistic (e.g. hospital waiting lists or school examination performances). This can lead to anomalies with different Ministers independently applying different criteria to decide which statistical outputs should be designated 'National Statistics' within the Minister's departmental responsibility. When National Statistics were first designated this led to significant differences for Health statistics for example between the statistics produced as National Statistics for the countries of the United Kingdom seriously weakening consistency for UK Health statistics. Another anomaly is that for England one month in each quarter the hospital waiting list statistics are a 'National Statistic' but not for the other two.

The perception that such decisions may be motivated by political advantage rather than statistical integrity undermines public confidence in all statistics. The whole thrust of the UN Fundamental Principles is to demonstrate separation between statistical production and inappropriate Ministerial influence. This would be achieved by authorising the National Statistician to determine the scope of National Statistics and hence to ensure that the statutory provisions applied.

The Government may have a contrary concern that additions to the scope of National Statistics may have financial implications leading to uncontrolled additions to expenditure for

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statistics. It is difficult to see the validity of this concern. There are two situations: where the statistics are already produced but not designated as National Statistics and when new statistics are called for.

Where statistics are already produced but simply not designated as National Statistics the choice to reclassify them is unlikely to carry serious financial consequences. It may be true that remedial actions may be needed if the quality of the existing series would not meet National Statistics standards but if that is the case then one must have concern for the quality of decisions which currently depend on the statistics in question.

More generally Ministers may have concern for unrestricted demands for new statistical outputs as National Statistics that may carry additional resource implications. But the existing arrangements whereby the National Statistician produces a high level work programme each year can lead to pressures to extend the range of statistics available. Hence a mechanism already exists to identify the need for more resources. This was foreseen in the existing arrangements and the decision to respond or not to such pressures is clearly a matter for Ministers and is controllable. What the current process is intended to achieve is that the decision to accede or refuse such pressures is a transparent process.

Hence if the authority to determine the scope of National Statistics was assigned to the National Statistician rather than Ministers it would strengthen public confidence that such decisions were not made for political advantage and would not, in general, lead to additional expenditure as a result of the change.

8.2 The Retail Price Index

The current arrangements assign responsibility for the RPI (including methodology) to the Chancellor of the Exchequer and are therefore inconsistent with the UN Fundamental Principles and international best practice. This has been criticised by members of the Treasury Select Committee and the Royal Statistical Society. It is argued that if the arrangements for National Statistics are intended to build trust and public confidence in the statistics produced then the RPI is too important a statistic to be excluded from the arrangements. No other country makes this distinction.

8.3 The National Statistics Commission

A good number of countries have National Statistical Councils or some equivalent. They vary in size from small (6-8 people) to medium (18-25) and much larger. In the United Kingdom the National Statistics Commission is a non-executive body comprising a chair and seven members together with a small staff. The Commission does not include anyone with policy responsibility or who is drawn from the Civil Service. It contains individuals who are not representatives of any organisation or section of society although an attempt has been made to get some balance in terms of background, gender, regional representation etc. The members are meant to have an appreciation of the value and use of statistical information in the economy or society in general and to take account of the public interest.

In general National Statistical Councils in other countries are required to provide some overview of Official Statistics, comment on strategic issues and/or the annual programme, specifically protecting the public interest and ensuring that the needs of government and the

wider community are properly taken into account. They are almost invariably non-executive having an advisory role.

They can, through their presence, provide a measure of protection to the statistical service from inappropriate political interference in some circumstances. They can draw attention to situations (for example lack of resources) that is affecting the quality of statistics produced or severely limiting the range available so denying legitimate user needs. Their existence adds to the perception of statistical independence and hence enhances public confidence.

The current description of the UK Statistical Commission has a different flavour. The tone of the terms of reference is not replicated in any other country. The UN Fundamental Principles, the perceptions that led to the Labour Party Manifesto Commitment to create an 'independent statistical service' and the repeated use of the word 'Trust' in the titles of the Green and White Papers (Cm 3882 and 4412) are rooted in the idea that the public need statistics that are demonstrably free from inappropriate political interference and can be trusted. The requirement is to protect the statistical production from political interference. The tone of the Commission's Terms of Reference is quite different. It is as if the Commission was designed to protect the public from the statistical producers.

If public confidence is to be built through enhancing the independence and professionalism of the statistical service then the tone of the Commission's role needs to be revised. If on the other hand public confidence depends on the Commission overseeing the statistical service (in the way that a regulator might) then there must be serious reservations about whether this is practicable and whether it is constituted to achieve this and has the appropriate membership and expertise.

Consider, for example, the recent concern about the way in which Railtrack was treated in the National Accounts through the period when it was taken into administration and then the assets and responsibilities subsequently transferred to a new entity. The Commission simply does not have the expertise to take a view about such a conceptually complex issue – and certainly not in the time-scale in which the issue was debated publicly. It is an unrealistic expectation that it should. The authoritative sources are experts within the ONS and international experts in other National Statistical Offices, in Eurostat or international agencies. If the Commission was to take a view on the technical treatment of such a complex issue then one would question its competence and the authoritativeness of the view expressed. If its view was challenged publicly then the standing of the Commission would be weakened and public confidence in one of the cornerstones of the new arrangements undermined.

A second point is that The Framework for National Statistics states that the main function of the Commission is to give independent, reliable and relevant advice to Ministers. If the main purpose of the Commission is to enhance public confidence and trust taking specific account of public interest and the wider user community, by promoting statistical integrity and by strengthening support for professional independence then there is an open question as to whether the Commission should be a Parliamentary body and hence report to Parliament rather than Ministers. This would also affect the way that the roles and responsibilities are couched. The practical question is how Parliament would consider the Commission's views and whether Ministers would be more or less likely to take account of them.

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8.4 The Minister Responsible for National Statistics

Until the late 1980's the Director of the then Central Statistical Office and Head of the Government Statistical Service reported to the Prime Minister. The CSO was then transferred to the Chancellor of the Exchequer and the current Framework Document assigns the role of Minister for Statistics to the Chancellor as well as his responsibility for ONS. There are two issues.

The first is that it can be argued that Treasury Ministers have conflicting responsibilities: to allocate funds to ONS as a spending department and as a major user of ONS Statistics with a particular emphasis on certain areas. There are concerns that these two roles may at some points in time slant the pressures within ONS towards statistical activities in which the Treasury has a significant interest and away from statistical activities that would support other ministries. As with all such concerns, the likelihood of this occurring will be greater under the influence of some Ministers than others.

The second issue is that the Minister of Statistics has a co-ordinating role across other Ministers who are inevitably Secretaries of State. In practice the Chancellor has delegated the role of Minister of Statistics to the most junior Treasury Minister (except in the most recent reshuffle when the responsibility was retained by the then Economic Secretary on her promotion to Financial Secretary). The practical consequence of delegation to a junior Minister is a concern that the incumbent will carry insufficient authority to co-ordinate Secretaries of State effectively.

8.5 Confidentiality of Statistical Data

National Statistical Offices regard keeping data confidential as a duty and a trust as well as a legal obligation. It is an essential part of the implicit contract between respondents (people, businesses and other institutional respondents) and the NSO. The respondent is required to provide data in the public interest and for the benefit of society, industry and commerce generally and in return the respondent must be secure in the knowledge that the information will not be used for administrative purposes and will not be released in an identifiable form: not to anyone including other arms of government. Indeed in some countries not even the courts can require the release of identifiable data collected under a Statistics Act. Seltzer (1998) describes the use of population statistics in the Holocaust and the Nuremberg trials.

In most countries this is a blanket requirement unless a respondent specifically agrees to publication of statistics that may breach confidentiality. For example in a country with only two airlines publication of turnover for the airline industry would be suppressed for confidentiality reasons but if published would improve the information available for economic management. In such circumstances the airlines may agree to specific information being included in the statistical releases.

The important reason why the Heads of NSOs prefer this as a universal guarantee is that it permits a clear unequivocal assurance to be given to all respondents. Statements that say 'data will be kept confidential unless ...' do not instil confidence in respondents that their data is secure. However there are two issues that may call for exceptions.

School and hospital performance and the like

First, in the UK there are increasing requirements to release certain kinds of information provided by responding institutions that is intended to be identifiable at the responding institution level. For example on individual schools, hospitals, police authorities etc. This trend could be extended into activities of individuals (e.g. surgical teams) or perhaps patient death rates for individual General Practitioners. The question is whether at some level of specificity such practices are administrative rather than statistical and should be excluded from activities covered by a Statistics Act. For the statistical activities (and undeniably there is considerable statistical expertise required to develop school performance statistics that take account of the school's intake for example) the question arises whether specific provision needs to be made in the legal basis. A related question is whether these powers cover only the public sector or should be extended to cover certain types of service to the public (e.g. the power to publish the same information on similar units in the private sector – private hospitals, schools, surgical teams).

Clearly such a power would cover some information (e.g. educational attainment) but not commercial information for which a private sector unit would be treated as a private business with the same guarantees of confidentiality as for other businesses.

Limited Business Register Information

Second there is pressure to make available a small amount of 'non-controversial' information on business units; for example the name, location, size (number of employees and turnover) and main activity of business units. In effect the core information maintained in a business register. Some of this information comes from administrative sources and some is collected under the confidentiality restrictions of statistical data collection (e.g. the information on which business activity is classified into the Standard Industrial Classification). There is a question whether such register information should be made available without breach of confidentiality and while retaining the overall confidence of respondents and if so whether it should be used for public purposes only (government departments, local authorities) or could be made available for private sector access.

Clearly any arrangements would have to be consistent with the Data Protection Act.

8.6 Arrangements for Pre-Release Access

Some countries prevent any access to statistics until they are published and released to all users simultaneously. This is designed to reinforce the complete separation between the statistical processes and Ministers and is regarded as best international practice. In some countries a small number of key economic indicators (e.g. GDP, inflation, unemployment) are made available for a short period (e.g. one hour or a few hours) to a very few people (e.g. Prime Minister, Minister of Finance, Governor of Central Bank).

In the UK these practices are much more widespread in terms of

- ## The number of releases for which pre-release access is allowed,
- ## The length time granted for pre-release access, and
- ## The number of recipients granted pre-release access

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than in many countries (including former Soviet block countries that have enacted modern statistical legislation). Indeed far from being restricted to a small number of key economic indicators as in other countries, in the UK the non market-moving statistics are given even longer periods of pre-release access than the economic indicators.

The issues are:

- €# Whether pre-release access should be permitted at all.
- €# If so whether the particular statistics, the pre-release recipients outside the statistical production team and the lengths of access should be set out in regulations.
- €# Whether a Statistics Act should legally prohibit the recipients from giving any indication of the contents until the statistics are released to the public by the National Statistician.
- €# Whether it should be the National Statistician or the various Ministers who have statistical production within their ministry that decide the arrangements and may propose amendments to the regulations. The current Framework Document leaves this to the various Ministers. There is concern that this will lead to a further erosion of current practice whereas the National Statistician would have a duty to maintain and promote the independence and integrity of National Statistics.

9 Summary and Conclusions

This paper attempts to set out the issues concerning the independence of a National Statistical Service and the arrangements that are commonly found in other countries. The United Kingdom is virtually alone among nations in having no Statistics Act to underpin statistical collection and dissemination.

The UN Fundamental Principles and the Acts in other countries reinforce statistical independence by separating the professional responsibilities of a National Statistician from the Ministerial responsibilities.

This paper sets out the benefits that would be derived by having a proper legal basis. It also draws attention to a number of issues where drawing up statistical legislation would allow current arrangements to be reconsidered.

An Annex distils the key components of Statistics Acts in place in other countries.

10 Acknowledgements

The initial draft of this paper was written at the request of the Royal Statistical Society's National Statistics Working Party. I gratefully acknowledge comments and suggestions made by the members. The final responsibility for the content, including any errors or omissions, is mine.

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Annex 1: The Possible Contents of a Statistics Act

- A.1 Establish the scientific independence and objectivity of statistics. *Consistent with the UN Fundamental Principles and the EU reference in the Amsterdam Treaty.*
- A.2 Establish that National Statistics serve all users (Parliament, government – all tiers, business, academia, analysts and the public). Reaffirm the role of statistics in the democratic process and the concept of National Statistics as a public good.
- A.3 Establish the National Statistician as a statutory post and the roles and responsibilities based on the current Framework Document.
 - ☞ Authority to collect, collate and analyse data and publish statistics and related material.
 - ☞ Authority to determine concepts, definitions, methods, choice of data sources. *RPI anomaly – see section 7.2.*
 - ☞ Authority to determine form, content and timing of statistical releases.
 - ☞ Authority to determine the scope of National Statistics. *See section 7.1.*
 - ☞ Duty to maintain and enhance the professional independence and integrity of National Statistics.
 - ☞ Duty to maintain a culture of openness and transparency in relation to methodology and quality.
 - ☞ Duty to establish user consultation processes to cover: statistical programme and priorities, gaps, developments, user perceptions of quality, presentation, dissemination and interpretation.
 - ☞ Duty to ensure that data collected under the Statistics Act are used for statistical purposes only and that the confidentiality of the respondents is protected.
 - ☞ Give the National Statistician statutory access to the Prime Minister on matters (including funding matters) affecting the integrity of National Statistics.

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- €# Give the National Statistician statutory authority to answer written Parliamentary Questions concerning statistics. *Since 1995 the Director of ONS has provided answers to written statistical PQ's at the request of the Chancellor of the Exchequer. This ensured that answers were separated from Minister's involvement and ensured that members of parliament were provided with support that was independent of Ministers. This could be placed on a statutory basis to guarantee a professionally independent response.*
- €# Transfer statistical responsibilities (including that for the Census) from the Registrar General to the National Statistician.
- A.4 Responsibility of National Statistician for the Office for National Statistics: Direct management responsibility, power to decide on work priorities and to allocate resources within overall budget, power to determine organisational structure, to appoint staff etc. *Involvement by Ministers in management/operational issues can amount to interference with the statistical processes and hence would undermine public confidence in statistical integrity. The current Framework for National Statistics recognises this.*
- A.5 Determine arrangements for the appointment and dismissal of the National Statistician. *Since the National Statistician is professionally independent of Government it is important that he/she should feel secure in exercising that responsibility. A number of countries specify the type of appointee (professional standing) and appointing process including such matters as involvement of external bodies (e.g. National Academy of Sciences). In some countries the appointment is made by the Head of State, is for a fixed term (renewable) and the government of the day has no power to dismiss without the approval of the Head of State or both houses of Parliament (except for reasons of criminal action, gross moral turpitude or incapacity).*
- A.6 Establish the National Statistics Commission as a statutory body and set out its role and responsibilities: *See section 7.3*
- A.7 Determine arrangements for the appointment of the Chair and members of the Commission: personal qualities, length of service, limitations on consecutive service, appointing process etc.
- A.8 Establish Minister of Statistics with statutory responsibilities:
 - €# To co-ordinate Ministerial activities in respect of National Statistics.
 - €# To ensure the integrity of National Statistics and the professional independence of the National Statistician to function.
 - €# To be accountable to Parliament for Government's responsibilities for National Statistics.
 - €# To co-ordinate Ministerial response to statements and requests coming from the Commission and to ensure that these are made public.
 - €# To lay annual reports from the National Statistician and the Commission before Parliament without amendment.
- A.9 Identify the Senior Ministry responsible. *See section 74.*
- A.10 Establish statutory responsibilities on all other Ministers who have responsibility for staff producing National Statistics:
 - €# to ensure that such staff can operate in an environment that promotes professional independence and can support the National Statistician in the discharge of his/her functions,
 - €# to support the Minister of Statistics in discharging his/her responsibilities,

- €# to decide on the level of financial resources to be made available for statistical purposes within the total funds available to the ministry,
 - €# to pay due regard to the professional independence and integrity of National Statistics.
- A.11 There is a question of whether Heads of Profession need to be established as statutory posts or whether their responsibilities can be delegated from the National Statistician. Heads of Profession in the devolved administrations will require separate consideration as will the form and nature of any legislation.
- A.12 Statistical Acts in other countries often contain provisions for a range of specific issues. In the UK these could include:
- €# Specific provision for annual planning arrangements: duty of National Statistician to consult users and prepare a plan, roles of Commission in considering and commenting on this and role of Minister of Statistics and other Ministers.
 - €# National Statistician to create and maintain a professional Code of Practice.
 - €# Authority to access administrative information held by government and other public bodies for statistical purposes.
 - €# Authority to require businesses and natural persons to provide information for statistical purposes. *Comment: Most countries including the United Kingdom collect data from businesses on a mandatory basis. This has been estimated at less than 1% of the regulatory burden on business. Mandatory data collection allows more precise survey designs to be used, greater use of sampling and hence reduces the overall burden on businesses. It thus reduces the total response burden on businesses. Failure to enforce compliance reduces the quality of National Statistics. The Pickford (1988) inquiry into economic statistics recognised this and resulted in business surveys being placed on a mandatory response basis.*
 - €# Authority to require government and public bodies to respond to statistical inquiries. *Comment: mirrors power to require businesses and other institutions to provide responses to statistical inquiries.* Statutory duty on staff in such bodies not to knowingly supply false information. *Comment: The controversy over the probity of responses used to compile hospital weighting list returns calls for a specific requirement to be placed on all public servants with appropriate penalties specified in a way that mirrors those in place for private businesses and individuals under the Statistics for Trade Act and the Census Act.*
 - €# Basis of data collection for Household surveys. *There is a question whether all household surveys should be placed on a mandatory response basis. This is done in some countries whereas household surveys (except the Census) are on a voluntary response basis in others. Household response rates are significantly lower in the UK than in many comparable countries and this affects quality. Experience elsewhere suggests that placing such surveys on a statutory basis would improve response rates and hence quality. It might be argued that this would reflect the responsibility that all citizens have, if selected, to support statistical inquiries that are part of National Statistics and are in the public interest. It would allow for more efficient survey design and reduce the overall response burden. Clearly, data confidentiality would be essential as it is under the voluntary basis.*
 - €# Authority for National Statistician to set charges for statistical outputs and services.
 - Data confidentiality (and power for National Statistician to authorise access for statistical purposes). *See Section 7.5*

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- €# Data linkage for statistical purposes. *There are important applications where records are linked for statistical purposes (e.g. the longitudinal study which has linked a sample of census records and other events since 1970. This has been used for statistical purposes supporting a very wide range of purposes). Authority for record linkage for statistical purposes and with proper safeguards is needed.*
 - €# Define statistical purposes. *The term 'statistical purposes' has been used repeatedly. This covers the collection, processing and compilation of data to produce statistics for dissemination. It also includes creating and maintaining registers and using statistical data to enhance these for use in sample designs, statistical estimation, record linkage, maintaining systems of classification etc..*
 - €# Authorise the National Statistician to promote international cooperation on statistical matters, provision of statistics to Eurostat and other legitimate international organisations, engage in technical co-operation and assistance programmes with other countries.
 - €# Authorise the National Statistician to co-ordinate the UK response to meet international needs.
 - €# Authorise the National Statistician to promote the quality of National Statistics throughout the producing system, to undertake quality assessments and audits and to review statistical methodology.
 - €# Authorise the National Statistician to have full access to administrative records throughout the public sector for statistical purposes. *The authority to audit returns from hospitals for example for quality assurance purposes.*
 - €# Duty of the National Statistician to co-ordinate the system of National Statistics.
 - €# Authority of the National Statistician to release anonymised micro-data. *The release of anonymised individual records from the household surveys to the ESRC Data Archive creates a major resource for social research for the academic community.*
 - €# Authority for the National Statistician to place statutory obligations on staff through delegation. *Comment: to ensure confidentiality, statistical integrity etc.*
 - €# Penalties (specified in regulations) for failure to provide information, knowingly to provide false or misleading information, breach of confidentiality, wrongful release of statistical information.
 - €# Responsibilities for annual reports to parliament from National Statistician, Statistics Commission.
Arrangements for pre-release access. *See Section 7.6*
- A.13 Repeal other Acts that would be subsumed within a Statistics Act.

ANNEX 2

Effect of the statistics legislation framework in the UK on the work of the government statistical service and possible developments in the future

Georgina Fletcher-Cooke

Summary

The complexity of the statistics legislation framework is confusing, and leaves members of the Government Statistical Service unsure about whether the activities they wish to carry out are within the law. Particular problems have arisen because of the lack of powers to collect information and because of legal requirements governing the confidentiality of information, which have prevented data-matching to produce correlated statistics. To deal with these constraints, amending legislation is being continually introduced, and other administrative measures such as sharing staff are being devised. The current position, especially on data-sharing, is not satisfactory and acts as a constraint on the work of the Government Statistical Service. Future developments, such as identity cards, could impact on this situation.

Scope of this paper

1. This paper reports on the effect of the existing statistics legislation framework in the UK on the ability of the Government Statistical Service to conduct its work efficiently and effectively. It considers specifically whether the existence of, or lack of, legislation constraints the work of the Government Statistical Service, and therefore, by implication, of Government generally. This report includes an assessment of whether the current position is satisfactory.
2. A considerable amount of work has been carried out recently on whether the organisational arrangements for statistics in the UK should be enshrined in legislation. Some of the papers on this topic have touched on the constraints resulting from the existing legislative framework; as such, they have been referred to in this report. However, the general topic of the current, and possible future, organisational arrangements is outside the scope of this study.

What is the existing statistics legislation framework?

3. There is no single source of law that regulates the collection, holding, processing, use and sharing of statistical information in the UK. Instead, it is governed by a number of different areas of law:
 - major Acts of Parliament about statistics (eg the Census Act 1920 and the Statistics of Trade Act 1947)
 - legislation (both Acts and Regulations) containing provisions about specific policy areas and the information associated with those policy areas

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- specific provisions on confidentiality of information, especially those in the Data Protection Act 1998 and the Human Rights Act 1998
- European Union law
- common law, especially regarding breach of confidence.

The sum of the existing legislation

4. It has been impossible, during the course of this study, to discover exactly how much legislation exists governing statistics. Searching for the word 'statistics' through the Stationery Office's or Butterworth's registers of legislation on the internet is only part of the story. The legislation index provided by HM Stationery Office (covering Acts, Regulations, Orders and Explanatory Notes for the whole of the UK since 1988) lists 99 uses of the word in primary legislation (Acts), 100 uses in secondary legislation (Regulations) and 19 references in Explanatory Notes. Many of these references relate, for example, to the granting of funds for the running of the Central Statistics Office through the Appropriation Acts or to the description of areas for licences for sea fishing under the Sea Fish Conservation Act, and so are not part of the general body of statistics legislation within the scope of this report. Among the references which **do** relate to the body of law on statistics are, for example:

- section 98 of the Electricity Act 1989, which allows the Secretary of State to obtain statistical information from people who generate or supply electricity
- section 91 of the Value Added Tax Act 1994, which allows the Commissioners of the Inland Revenue to disclose information about people registered for VAT to, among others, the Department of Trade
- section 64 of the Child Support, Pensions and Social Security Act 2000, which allows regulations to be made on the use and exchange of information between the Probation Services and the Benefits Agency
- section 4 of the Gas Act 1995, which amends the Statistics of Trade Act 1947 to include references to the quantity and value of gas supplied in Great Britain.

5. From the list above, it can be seen that searching in different ways may produce other references to legislation on statistics. For example, references to primary and secondary legislation may appear by using the words 'supply of information', 'disclose information', 'confidential information', 'furnish returns', 'restricted information'. Searching just for the words 'supply of information' in the HMSO web site produced over 1000 results, including:

- the Housing Benefit, Council Tax Benefit and Supply of Information (Jobseeker's Allowance) (Consequential Amendments) Regulations 1996
- the Plant Breeders' Rights (Farm Saved Seed) (Specified Information) Regulations 1998

- the Employment Act 2002
- the Television Licences (Disclosure of Information) Act 2000 and
- the Water Act 1989.

6. No one consulted during the course of this study had a complete overview of the extent of statistics legislation in the UK. Even members of individual Government Departments often do not know what legislation governs their work; among the members of the Government Statistical Service whom I met, few could quote the references to legislation under which they operate. There was enormous confusion about what might or might not be possible under the existing legislation. Interpretations of what may or may not be possible also vary among Government lawyers.

Powers of government departments which are not in legislation

7. It is not necessary for a Government Department to have explicit statutory powers to carry out its activities. Government Departments have a range of basic functions. The collection, use, and processing of information is often ancillary to these functions, and therefore is implicit in the legislative framework. Examples might include information on the numbers of recipients of certain social security benefits, although there is no express statutory power to collect it. Such information is often called 'administrative data'.

8. In addition, government departments headed by a Minister of the Crown (such as the Treasury, the Home Office, the Department for Education and Skills) have common law powers – the usual position is that the Crown has power to do whatever a natural person may do under the common law (unless the power has been taken away by statute). In some areas there are additional specific powers that are unique to the Crown (prerogative powers) eg in relation to foreign affairs and defence. In contrast, some Government Departments are created by statute and not headed by a Minister (such as the Inland Revenue and Customs and Exercise) and these can only do what is expressly or implicitly authorised by statute. Local authorities are in the same position as non-ministerial Government Departments and can only operate under the legislation governing their activities.

Topics covered in the legislation

9. The legislation on statistics, or on the collection or use of data, often covers three specific topics, which are:
- powers to obtain information, and/or requiring individuals or organisations to supply it
 - a requirement to keep information confidential, unless permission has been given to disclose it and

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- the offences which may be committed by those who do not supply information, who supply false information or who reveal it without permission.
- In addition, sometimes the legislation allows those who hold data to charge for analyses of it.

10. Specific legislation on particular topics states why information is required and defines the information needed. The Statistics of Trade Act 1947 provides an illustration of the scope of statistics legislation in the UK:

- *Section 1 of the Act* allows Government Departments to collect information to understand economic trends, to provide a statistical service for industry and to allow them to carry out their functions, and requires people running businesses to respond. *Section 2* requires there to be regular general surveys of the state of trade and business, and *section 3* requires people to complete them.
- *Section 4* sets out the levels of fines which apply if someone is convicted of failing to respond to a requirement to supply information or supplies false information.
- *The schedule* to the Act lists the subjects about which companies may be required to provide information, and *section 5* of the Act allows the schedule to be added to or amended by Order.
- *Section 9* states that individual returns shall be kept confidential unless the Minister has directed that they can be given to a Government Department “for the purpose of the exercise by the Department of any of their functions”.
- *Section 17* of the Act provides definitions, including the fact that an “undertaking” in the terms of the Act can include local and public authorities and non-profit-making businesses.

Key areas where existing legislation impacts on the work of the Government Statistical Service

11. From the above list, it is clear that the existence or lack of legislation is most likely to affect the Government Statistical Service in two main respects:

- there may not be powers to collect the information which the Government needs to carry out its work
- the legislation (especially provisions on confidentiality) may prevent different data sets being brought together, or data being used for different purposes than that originally intended.

These two issues, which will form the main focus of the rest of this report, require amendments to be made to the legislation each time they occur in order to allow the Government Statistical Service to carry out its functions. The quantity of existing legislation on statistics, which has been referred to above, is partly the result of this continuous stream of amendments. The second of the two issues is causing most difficulties at present.

12. During the course of this study, some of those consulted (see list at *Appendix 1* to this report) referred to powers to charge fees for statistical analyses. This was not seen as a current constraint on the work of the Government Statistical Service (perhaps because income received by Government Departments does not directly benefit those working in particular areas in the Department, such as on statistics), but is a topic which should be considered if new statistics legislation is being contemplated. One respondent also mentioned the constraints on his work resulting from intellectual property rights and from a Trading Fund Order. A short note on charges and on intellectual property rights is at *Appendix 2* to this report.

How constraints are handled in practice

13. The Government Statistical Service has found a number of ways of handling particular constraints which have arisen in recent years. In particular, it has:

- introduced amending legislation (which has had the effect of increasing the confusion, both for the general public and for Government Statisticians, about what the law actually permits in any particular case)
- devised protocols (sometimes of dubious legality) to permit data-sharing
- seconded staff to another organisation to allow access to its data, or appointed staff jointly between two or more organisations to enable them to bring data sets together
- enabled the staff of one organisation to work on the premises of another in order to access the data held by the second organisation (which may also be of dubious legality).

Drivers for change

14. The constraints caused by the existing legislation have been highlighted in recent years for a number of reasons:

- The current Government's focus on cross-cutting issues, which fall between the responsibilities of a number of different Departments, has heightened the need for those Departments to share and pool data.
- Technological developments mean that data can now be manipulated and matched in ways which would not have been practicable in the past.
- The Government's objective of targeting services better towards those who most need them has resulted in a drive towards more specific data sets, and in particular, data relating to small areas – this has heightened the need for central and local government to work together and to share data.

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- The functions of Government are increasingly being carried out, not directly by Government Departments, but by a range of other public bodies, which may need powers to collect and use information and to share data previously collected by the 'parent' Department.
- The privatisation of some services may mean that legislation is needed for the collection of data which was previously collected from the public sector.

Powers to collect information

(a) From individuals

15. Most information about individuals required by Government is collected from administrative systems. There is, therefore, relatively little legislation which requires individuals to supply information to Government or public bodies. Exceptions include The Census Act 1920 (under which Regulations may require people to make returns); the Population (Statistics) Act 1938 (section 1 of which requires individuals to supply information about births, still-births, or deaths), and Part II of the Council Tax (Administration and Enforcement) Regulations 1992 which requires residents, owners or managing agents of particular buildings to provide information about liability for the tax. Individuals in contact with Government services, such as the social security system or the National Health Service, voluntarily supply information about themselves in order to obtain the services they need, and not for statistical purposes. The subsequent collation of the data for statistical purposes is often implied by the legislation, rather than specified. Members of the Government Statistical Service consulted during the course of this study did not mention any difficulties in obtaining basic data about individuals.

(b) Collecting information for surveys

16. The response rate to voluntary surveys, such as the Family Expenditure Survey or the British Crime Survey, has been falling and this affects the quality of the information obtained. It has been argued that such surveys should be backed by a requirement to supply the information, as is the case in many other countries.

(c) From organisations

17. The most common legislative powers to require the supply of information relate to organisations, usually in the private sector. As an example, The Statistical Returns (Carriage of Goods and Passengers by Sea) Regulations 1997, made under section 2 of the European Communities Act 1972, state:

“The Secretary of State may require by notice in writing any person carrying on business or trade in the maritime transport sector or any harbour authority to furnish, in such form and manner and within such time as may be specified, such periodical or other returns about such of the matters set out in the Schedule to these Regulations in relation to the carriage of goods and passengers by seagoing vessels as may be specified.”

The Schedule to these Regulations lists in great detail the information which may be required, including the weight and type of cargo, number of containers, number of passengers, ports used and details of the vessel.

18. As well as transport organisations, legislation requiring the supply of information covers independent hospitals, schools, private and voluntary care homes, nursing agencies, and utility companies, among others. Under section 537A of the Education Act 1996, for example, the Department for Education and Skills has powers requiring the governing bodies of schools to provide information about pupils to Local Education Authorities. Regulations such as The Education (Information about Individual Pupils) (England) Regulations 2001 are made under section 537A, and those Regulations apply to maintained schools, academies and non-maintained special schools, including religious schools, which are required to supply detailed information on each pupil, including those with special education needs, receiving free school meals, and taking examinations. Members of the Government Statistical Service consulted in the course of this study recognised that the lack of legislation to require the supply of information was, or could be, a constraint upon their work. Some commented that it was common to use other levers to obtain the information needed – for example, information is collected by the Home Office from privately-run prisons under the contract through which each prison is funded, and information is collected by local authorities from transport companies, who may have to supply it in order to receive subsidies for, for example, concessionary fare schemes.

19. The Health Statistics Users Group has expressed concern to Health Ministers about the lack of information collected from the private health sector, which did not allow anyone to assess whether that sector offers high standards for patients or good value for money for the taxpayer. The Group believes this issue to be of particular importance in the context of introducing intermediate care beds, so that their use, and their impact on use of acute beds in the NHS or the private sector, could be monitored. In fact, The Care Standards Act 2000 requires the private health sector to supply information to the National Care Standards Commission – and, because this is an area in which new public bodies are currently being created, The Health and Social Care (Community Health and Standards) Act 2003, which has recently passed through Parliament, transfers the function of collecting this information to the new Commission on Health Audit and Inspection and the Commission on Social Care Inspection. These bodies, under section 103 of the new Act, will also have the duty of making information about the independent healthcare sector and registered social care agencies in the private and voluntary sector available to the public.

20. Sometimes it is not clear whether the powers are available in primary legislation to collect information which is needed by the Government Statistical Service. In the course of this study, the Home Office indicated that they might, in future, see a need to collect information about ‘non-prison corrections’ – such as parenting classes, which the parents of young people who have committed minor crimes, such as vandalising property, may be required to attend.

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21. It seems clear that a general order-making power to require organisations to supply information for policy-making or statistical purposes, would assist the Government Statistical Service in carrying out its responsibilities. The power in primary legislation could allow the Secretary of State concerned to make regulations specifying what information was needed, and from which organisations. The regulations made under the primary power could, as a safeguard, be subject to the affirmative resolution procedure, so that on each occasion that regulations were needed they would have to be debated in Parliament.

Confidentiality, data-sharing and data-matching

22. This area of the legislation seems to be causing more problems than any other. It is also an area where Government Departments have recently taken steps to legislate to remove problems; where there is a lack of clarity about what the legislative position actually means (including, sometimes, among lawyers working for different Departments) and where the actual position is in fact enormously complex.

The legal provisions on confidentiality

23. There is no dispute that legal provisions to protect sensitive information about individuals and to protect commercial information about organisations are necessary. The provisions which exist include:

- those in statistics legislation (such as section 9 of the Statistics of Trade Act 1947, which governs the confidentiality of information about businesses and other organisations collected under that Act; section 8 of the Census Act 1920, which governs the confidentiality of census information; and section 4 of the Population (Statistics) Act 1938)
- specific legislation in the Data Protection Act 1998, which relates only to living individuals, and which protects much of the data collected for administrative purposes within the functions of particular Government Departments
- provisions in a wide variety of other Acts and Regulations, such as those concerned with taxation
- those in the common law, and particularly provisions relating to the obligations of particular professions, such as the medical and nursing professions and social workers.

24. In May 2002, the Lord Chancellor's Department produced a list of statutory provisions concerning disclosure of information. The list was produced because, under section 75 of the Freedom of Information Act 2000, there was an obligation to review any legislation which appeared to be capable of preventing the disclosure of information under that Act. The list contains legislation in both Acts and Regulations which requires information to be kept confidential. Replying to a Parliamentary Question on the issue, the Lord Chancellor said: "We have identified 155 items of primary legislation and 83 items of secondary legislation that contain provisions

prohibiting the disclosure of information. We have also identified a further 62 items of primary legislation and 18 items of secondary legislation which contain provisions providing discretion to disclose information. We have identified 36 items of legislation to be repealed or amended under the provisions of section 75 of the Freedom of Information Act 2000. 57 items of legislation have been identified which fulfil our international obligations. It will be necessary to retain these.”

25. It has been argued that most confidentiality provisions in UK legislation, where they exist, are inadequate for the protection of members of the public. In many countries outside the UK legislation goes much further: providing, for example, assurances to individuals that identifiable data will be confined to those (and only those) who need access for statistical purposes. In other words, the legislation provides protection from breach of confidence within government itself. This exists in the UK in only a few circumstances, such as the Finance Act 1999.

Constraints caused by the provisions on confidentiality

26. During the consultations for this study, two items of legislation on confidentiality were mentioned as causing particular constraints on the work of the Government Statistical Service. Both are concerned with taxation.

- Statisticians in the Inland Revenue commented that there was no good-quality academic research on taxation issues, because much of the basic data could not be made available to academic organisations. Section 182 of the Finance Act 1989 and section 6 and schedule 1 to the Taxes Management Act 1970 make it an offence for a person to disclose any information which he holds, or has held, in connection with the exercise of his tax, tax credit or social security functions. The way that the provision in the Finance Act 1989 is worded means that information cannot even be passed freely within the Inland Revenue, and can only be used by those who have it because of the work they do.
- The prohibition in paragraph 17 of schedule 2 to the Local Government Finance Act 1992 on the use of council tax data for secondary purposes has prevented personal, identifiable information being used in other parts of the same local authority (and also from being passed to others outside the local authority for statistical purposes). The paragraph in question states:

- “(1) Regulations under this Schedule may include provision that an authority*
- (a) may supply relevant information to any person who requests it for a purpose not relating to Part I or II of the Act; and*
 - (b) may charge a prescribed fee for supplying the information.*
- (2) For the purposes of sub-paragraph (1) above, information is relevant information if –*
- (a) it was obtained by the authority for the purpose of carrying out its functions under Part I or Part II of this Act; and*
 - (b) it is not personal information.”*

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The Information Commissioner has advised that, since this paragraph prohibits regulations allowing for the supply of personal information, all disclosures of personal information for non-council tax purposes are prohibited. This means, for example, that the planning department of a local authority cannot obtain information about vacant properties which has been collected by the same authority for council tax purposes in order to assist it in developing unused properties in an area. In the consultations for this study, the Office of the Deputy Prime Minister mentioned the difficulties they were encountering because of the wording of this section, in bringing together information from the Valuation Office with information about vacant properties in local authority areas.

Data-sharing about organisations

27. Some of those consulted during the course of this study commented on difficulties they had encountered in obtaining or sharing information about organisations. For example, the Department of Trade would like to bring together information on companies from the Business Register with data from Customs and Excise on imports and exports. They said that both Departments had consulted their lawyers and that these had interpreted the legislation in different ways.

28. The Inland Revenue explained that they had encountered difficulties obtaining information about companies' research activity from the Office for National Statistics. The Statistics of Trade Act 1947 (section 9) prohibits the disclosure of individual returns and information relating to individual companies obtained under the Act except "*in accordance with directions given by the Minister in charge of the government department in possession of the information to a government department for the purpose of the exercise by that department of any of their functions.*" The relevant Minister in this case is the Chancellor of the Exchequer, who has delegated his power to make directions under this section to the National Statistician. It appears that the difficulties which some departments have been encountering stem from the processes which have been put in place by the Office for National Statistics to ensure that confidentiality is protected and that returns are only released for the purposes permitted under the law. ONS admitted that their microdata release panel had taken longer than it should have to reach decisions on the release of information and that the process had now been changed in order to provide a speedier result. They also said that, so far, no requests to obtain information had been turned down.

Data-sharing about individuals

29. In April 2002 the Cabinet Office's Performance and Innovation Unit published a report on the ways in which information held by the public sector – including personal data on individual citizens – could be used more effectively and efficiently, including sharing some of that information across organisational boundaries, to help in the delivery of high-quality services and the development of well-targeted policies.

The five-point strategy proposed in the report included elements designed to achieve greater clarity of the legal framework, and consultation on possible legislative changes to establish data-sharing gateways.

30. Recognising that this is a subject which has caused considerable confusion, the Department for Constitutional Affairs, which is now responsible for carrying forward the recommendations in the PIU report, has produced guidance entitled *Public sector data sharing: guidance on the law*, which was published on 24 November 2003. The guidance is specifically targeted at lawyers and other interested professionals working in the public sector. It is, perhaps, an indication of the complexity of the issues that the guidance extends to 37 pages. The guidance recognises that the legal framework on this topic is complex and overlapping.

31. The guidance includes a checklist of the key legal considerations relating to data-sharing, which are:

- whether the organisation that is to hold and administer the shared database has the legal power to do so (which either may be statutory, implied by the existing law, or under common law)
- whether the data that is to be shared is subject to legal restrictions, whether express or implied (eg sharing of information relating to council tax could be subject to a legal prohibition)
- whether the information to be shared is confidential or was provided in circumstances giving rise to an obligation of confidence
- whether the Data Protection Act 1998 applies, and if so, whether the data sharing might be allowed under the conditions in its schedules.

32. There is no single source of law that regulates data sharing in the public sector. The sharing of data about individuals may be governed by specific legislation or by the provisions of the Data Protection Act 1998 and the Human Rights Act 1998. [The last piece of legislation (article 8) prohibits 'interference' with an individual's private and family life, his home and his correspondence. It can be argued that, as far as statistics are concerned, this should not be an issue – since the purpose of matching the records of individuals is normally to produce correlated statistics – and not to take administrative or other action affecting the individual concerned.]

33. Now that the guidance has been published, DCA's priority is to establish exactly what can be accomplished within the existing legal framework, and to establish how far there is a case for a new gateway power to allow data-sharing. DCA's future action will therefore focus on:

- providing further guidance on how to establish protocols between departments/organisations allowing data sharing
- providing examples on their web site of data sharing which is possible within the existing legislative framework

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- providing training for key officials who need to know more about data sharing, eg for lawyers working in local authorities
- getting agreement between the legal advisers in a range of Government Departments on exactly what is legally permissible at present and what is not (eg because there is currently disagreement on whether arrangements such as joint appointments are legal or not).

34. There is a clear distinction between data-sharing gateways for administrative purposes (ie to improve coordination between services for the benefit of individuals) and those required for statistical purposes (eg to create the data sets to improve policy-making in cross-cutting areas). Achieving gateways for the latter purpose may be presentationally easier. Amending legislation for statistical purposes would solve a number of current problems. It might be helpful to consider a range of safeguards which could also be incorporated within any future legislation, for example, establishing some form of ethics committee to deal with proposals for data-matching, and placing a statutory obligation on the individual officers with access to the data set being matched not to disclose the information to anyone else. (This could mirror the existing sections in tax legislation which apply to individual tax officers and which prevent them from telling others, even within the Inland Revenue, about individuals' tax affairs.) European legislation would probably mean that there would need to be a new data controller for any matched data sets, and this responsibility could be placed, for example, with the Office for National Statistics.

Data-sharing for administrative action

35. In some circumstances the only way that a proposed activity which involves data sharing can be carried out by the Government is by passing new legislation. A number of new pieces of legislation have recently been enacted which specifically permit data-sharing. In the main, these have been designed to allow a number of organisations to share individual records, and to reduce the burden on individuals who might otherwise need to supply the same information to a number of different agencies. Section 115 of the Crime and Disorder Act 1998, for example, specifically allows the disclosure of information between the police, the local authority, the probation committee and the health authority for the purposes of that Act (eg to deal with criminal behaviour by young people).

36. A major exercise has recently been undertaken by the Department for Work and Pensions to create a database of individual records which links records on social security benefits, child benefit, tax credits, employment and training. Legislation has been used to create a one-way legal gateway (it allows the Inland Revenue to pass information to DWP, but does not permit the DWP to pass information in the other direction). In total, references in five different Acts of Parliament have been required, including the 1998 Social Security Administration Act, the 1992 Social Security Administration Act, the Tax Credits Act 2002, and the Employment Act 2002.

37. The Department for Work and Pensions will use this database both for compliance (eg to check against social security fraud) and for research. It will allow better targeting of social security resources and better policy-making. For research purposes, the Department intends to encrypt the national insurance number (which is the individual identifier) before passing the individual records to analysts or outside researchers under contracts or service level agreements. This will allow the data to be used, for example, for work on social deprivation. The Department for Work and Pensions is also considering a range of options to create better links between its data and that held by the Inland Revenue, including as an interim measure using joint employment contracts to allow members of staff belonging to both departments to access data on benefits and taxation.

38. The DWP have recognised that the establishment of this database involves considerable ethical issues, and as a result they are setting up an ethics committee (including representatives of the legal profession, of employers, of professional interests and experts in individual rights) to monitor the use of the data. It is debatable whether the implications of the legislation are clear to the public. (When signing to claim a social security benefit, claimants also sign to recognise that the data they provide may be linked with that from other Government Departments, although it is not made clear which departments, and which records, are involved.)

39. In creating their database, the Department for Work and Pensions has recognised the importance of freedom of information issues. A list of the data available as a result of the exercise – anonymised to prevent any individuals being identified – will be accessible to researchers, interested members of the public and others over the Department's web site.

Data-sharing for research

40. The Department of Health has promoted new legislation – the Health and Social Care Act 2001 – governing confidential information about identifiable patients and setting out the circumstances in which it might be disclosed without the patient's consent. These include public health, research and statistical purposes, in the interests of improving the care of patients or in the public interest. Section 60 of the Act allows regulations to be made governing how information may be used, who it may be disclosed to, and in what circumstances.

41. The Department of Health sees this legislation as an interim measure. The Department is very conscious of the needs of medical confidentiality and has established a Patient Information Advisory Group to consider applications from medical researchers. In the longer term, the Department aims to use coded identifiers on otherwise anonymised individual records to avoid those records being linked to an individual patient. The Department also believes that consent should be sought before individual patient data is disclosed to third parties, unless statutory provisions apply or there is a real public interest justification for disclosure.

Statistics needed for cross-governmental work

42. Members of the Government Statistical Service consulted in the course of this study mentioned a number of areas where they would like to link databases, using individual records, to produce information needed for the development of policy on key cross-cutting issues, but this had proved either extremely difficult or impossible. Some of these policy areas included links between:

- teenage pregnancy and educational achievement
- suicides and incomes on farms
- drug/substance abuse and offences committed
- educational attainment and receipt of social security benefits
- indices of social deprivation, eg receipt of social security benefits, educational achievement, experience of crime.

43. Further issues have recently arisen because of machinery of government changes. The expansion of the work of the Department for Education and Skills to cover all children's issues has raised the question of whether that Department can now legally collect and use all data about children which previously was the responsibility of other Departments. For example, the DfES now needs the power to collect and share information about children in contact with social services, previously within the remit of the Department of Health. Normally, since each Government Department has a single data controller for the purposes of the Data Protection Act 1998, information within that Department can be shared and reprocessed as necessary. However, it is not yet clear whether this sharing is governed by separate legislation and whether the rules which apply to Government Departments also apply retrospectively to data which has been collected in the past.

Forthcoming developments

(a) Data sharing/matching

44. The report in April 2002 from the Cabinet Office's Performance and Innovation Unit recognised that not all of the current problems arising on data sharing/data matching can be solved within the existing legislative framework. As suggested in that report, it may be necessary at some point to introduce a Bill to enable legislative gateways to be created for data sharing. This could be achieved by creating a regulation-making power in primary legislation; secondary legislation would then set out the particular circumstances in which data sharing would be permitted in each case, and between which organisations.

45. There is an argument that any legislation brought forward should distinguish between sharing for administrative purposes (eg to seek compliance for taxation or benefits legislation, which would require the use of the merged individual records), and matching data with the aim of producing an anonymised, correlated data-set for statistical purposes. Modern technology now permits a great deal of the work of

correlating individual records to be carried out by computers to produce statistical outputs which do not permit any individual to be identified. Carrying out this task for the purpose of developing government policy seems to be a different matter from linking records for purposes which entail a wide range of information about a given individual being known to a variety of different departments/services for compliance.

(b) Citizens Information Project

46. The Office of National Statistics has been considering the establishment of a database of all citizens in the country. This might draw on records of births, marriages and deaths already held by the Registrar General, and/or on census records. Creation of such a database would need primary legislation. Such a database could be used, not only for statistical purposes, but also to simplify for individuals the process of interaction with Government. For example, it might prove to be a route whereby an individual who moved house would only need to make one notification of his or her change of address – and the information would be transmitted to all parts of Government providing services. Linking, coupled with stringent requirements on confidentiality, would not only benefit the individual citizen who would then be able to reduce the amount of form-filling needed to access different services, but could also benefit the Government Statistical Service. For statistical purposes, the amount of information needed, and the cost, of completing voluntary surveys could be reduced by means of identifiers, which would link survey responses to data previously provided by the individual concerned (eg on his/her place of residence, sex, ethnicity and age). There has been little public debate on the extent to which the benefits of such a database might outweigh the disadvantages. A major concern would be the desire of most individuals to keep their information private. However, surveys carried out for the Office of the Information Commissioner have revealed that most members of the public already believe that information they provide to one part of Government is accessible to all Government Departments and services.

(c) Identity cards

47. Government proposals for primary legislation, announced in November 2003, to bring in identity cards to substitute for the current driving licences and passports, initially on a voluntary basis, are being taken forward by the Home Office. Draft legislation will be published early in 2004 and this will contain, among other things, the powers necessary to set up a database and to obtain information for checking purposes from other sources.

48. The identity card project is designed for administrative/management purposes, and not for statistical purposes. However, it will have considerable implications for statistics, in particular:

- The eventual database will form, within about ten years, an almost complete and a totally up-to-date record of all adults in the country, containing names, addresses, and date of birth as a minimum – this could then be used for other important statistical/policy-making purposes.

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- The system will require data matching and links with existing data sources, for the purposes of checking identity.
- There may be a need for an ethical watchdog to protect the interests of the public and individual confidentiality when information is being matched with that from other sources.
- The project throws doubt on the need for a separate Citizens Information Project, as currently proposed by the Office for National Statistics.

49. The Home Office are conscious of the need to check people's identity before cards are issued and intend, initially, to make use of existing passport/immigration data already held in the Home Office to do this, as well as data on existing driving licences currently held by DVLA. To achieve this, the legislation will need to give the Home Secretary powers to access the DVLA's data (and that held by the separate Northern Ireland Driver and Vehicle Licensing Agency). In addition, there is a possibility of making checks on identity by using data held by the social security benefits system, the National Health Service, the register of births, marriages and deaths and/or by credit reference agencies. Checks made to establish identity are clearly in the public interest; equally, there will be a need to balance this with the requirements of individual privacy.

50. The data controller for the new data set covering identity cards is likely to be the Home Secretary. The Home Office's current proposals are that the identity card database should be kept 'clean' and used for establishing and checking identity only. Information held on it would consist only of that drawn from applications for identity cards. The database would be used for authorisation purposes (in the same way that credit cards are often authorised now) by both public and private services. For example, it could be used to check eligibility for NHS treatment (eg following an accident). The main purpose of these checks back to the main database would be to prevent the use of stolen or fraudulent identity cards.

51. There are no current plans to use the data on this new database (which, even if the issue of identity cards is limited to driving licences and passports only, will soon amount to some 80 per cent of the population), for statistical or policy-making purposes. The database will need to contain the name, address, and date of birth of each individual who has applied for a card (and also previous addresses). Whether other information will be included has not yet been decided.

52. It has also not yet been decided whether other agencies apart from the Home Office will be able to access the Home Office's database for their administrative purposes – eg to check an individual's latest address or to clean their own data. The Home Office has not yet decided what numbering system will be used on the identity card database – the most likely systems are either a completely new system, the national insurance number, currently used for social security benefits purposes and for contributions and tax, or the national health service number, which is also a comprehensive record of most individuals in the country. The Home Office database

could in future have a number of administrative uses across central and local government (eg to check liability for Council Tax) – and might also be used as a central record to avoid individual members of the public having to provide, for example, their new address to a large number of different agencies.

53. It is also not yet decided whether the new database might be used to generate statistics. There is a need in a number of Government Departments for data matching using individual records for purposes such as neighbourhood renewal data, which could demonstrate whether the same individuals are poorer, have low educational attainment, have children attending the worst schools, experience most crime, etc. These prospective uses of the new database will need to be considered before the legislation is finalised.

54. Much of the detail of the policy on identity cards is not yet determined, and the Government plans a consultation period on the draft legislation, starting early in 2004.

55. The Home Affairs Select Committee will be looking at the issue of identity cards over the next few months. Written evidence has been requested by the Committee by 5 January 2004.

Impact of these developments

56. The identity card project will add another national database of individuals to those which already exist, such as the database of social security recipients, the National Health Service database, and the Register of births, marriages and deaths. Links between databases created by different Government Departments are being established all the time, for very good administrative and statistical reasons. But the end result is likely to be that individual members of the public will have no idea where, within government, personal data on them is held, whom to approach to check that the data is correct and, if not, how to put it right, on all the affected databases. The Office of the Information Commissioner, one of whose roles is to act as a watchdog over the confidentiality of data on individuals, is concerned that the public has the right to be informed about where data is held, and particularly when data sets affecting individuals are brought together. In addition, instead of the growing number of national and linked databases, the processing of the data should be done, in an ideal world, in a single place where its security is guaranteed. This would argue for bringing together the proposed identity card database, the Citizens Information Project, the database held by the DWP, and some others – and for making any data-matching away from the single national database illegal.

Conclusions

57. It is clear from this study that the legislative framework for work on statistics within Government is a source of a considerable amount of confusion. Government Statisticians frequently do not know whether work which they wish to carry out to assist in the development of government policy is within the legislation or not. This is particularly the case for the legislation on the confidentiality of individual data. Apart from the confusion, there is a need for amending legislation to permit data-sharing in circumstances which are currently impossible, both for administrative and for statistical purposes. It may be considered desirable to distinguish between data-sharing for administrative purposes and that for statistical purposes, since the latter does not pose such a threat to the privacy of the individual. The legislation could also include safeguards, such as a requirement to set up an ethical watchdog to monitor proposals for data matching affecting the privacy of individuals and their families. If legislation is being considered, the opportunity should also be taken to look at wider needs for data, such as a power to require the production of information for statistical purposes.

Appendix 1

List of those consulted in the course of this study

Richard Eason	Inland Revenue
Edwin Ko	
Deborah Horn	
Julie Stanborough	
Iain Bell	Department for Work and Pensions
Paul Wiles	Home Office
Dr John Fox	Department of Health
Phil Walker	
Michael Wright	
Mike Hughes	Office for National Statistics
Paul Jackson	
Leah Pybus	
Antonia Roberts	Department for Transport
Peter Swallow	
Glenn Everett	Department of Trade and Industry
Guy Davison	HM Treasury
Gill Eastabrook	Statistics Commission
Helen Barnard	Department for Constitutional Affairs
Roger Hartley	
Paul Boyle	
Malcolm Britton	Department for Education and Skills
Nic Ash	
Sue Greenaway	
Peter Capell	Office of the Deputy Prime Minister
Simon Edwards	
Jane Todorovic	
Rob Clements	Library of the House of Commons
Tim Holt	Royal Statistical Society
Peter Bloomfield	Office of the Information Commissioner
Michael Jennings	Central-Local Government Information Partnership
Deana Leadbeter	Health Statistics Users Group
Margaret Eames	

Appendix 2

A. Charges for statistical analyses

Some of the current statistics legislation allows charging for statistical analyses; for example, the Office of National Statistics can charge for some analyses under the Census Act 1920.

In general, Government Departments do not have such powers; where they do, they make little use of them. The lack of powers to charge was not seen as a current constraint by members of the Government Statistical Service.

There is 'however' some pressure to permit charging by statisticians in Local Government. Local authorities believe that they hold a considerable amount of tradable information which would find a market among commercial companies, and which could generate income.

B. Intellectual property rights

The Office of the Deputy Prime Minister mentioned, during the consultations for this study, the difficulties they are encountering in producing a register of brownfield sites by geographical location. The problems have arisen because the Ordnance Survey, operating under a Trading Fund Order, made under the Government Trading Funds Act, which requires charges to be made to meet costs, was not able to supply the geographical co-ordinates needed to enable the register to be drawn up. Ordnance Survey argued that it had intellectual property rights over this information.

ANNEX 3

International developments in statistical organisation

Graham Mather

1 Introduction

1.1 Background

1.1.1 Following my original work on comparators to the Statistics Commission I was asked to produce a further report which would help the Commission to take into account international as well as UK comparisons and developments.

1.1.2 This report therefore looks at the international dimension in four chapters.

1.1.3 Chapter 1 examines the work of the United Nations Statistical Commission and in particular developments arising from its adoption in 1994 of the Fundamental Principles of Official Statistics.

1.1.4 Chapter 2 looks specifically at the European Union and examines approaches and issues both in existing member states and in the 10 new member countries. It also looks at the perspectives of Eurostat.

1.1.5 Chapter 3 looks at other organisations and institutions which might be useful in the context of international best practice and networking.

1.1.6 In Chapter 4 the report pulls together observations arising from the international scene which may assist the Commission as it takes forward its work and in particular as it develops its thinking on the possibility of statistics legislation in the United Kingdom.

1.2 The UN Fundamental Principles *[see Annex 5 of main report]*

1.2.1 In its special session of 11-15 April 1994 the United Nations Statistical Commission adopted the Fundamental Principles of Official Statistics which had earlier been adopted by the Conference of European Statisticians and its parent body the United Nations Economic Commission for Europe.

1.2.2 These principles read as follows:

Principle 1. Official statistics provide an indispensable element in the information system of a society, serving the government, the economy and the public with data about the economic, demographic, social and environmental situation. To this end, official statistics that meet the test of practical utility are to be compiled and made available on an impartial basis by official statistical agencies to honour citizens' entitlement to public information.

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Principle 2. To retain trust in official statistics, the statistical agencies need to decide according to strictly professional considerations, including scientific principles and professional ethics, on the methods and procedures for the collection, processing, storage and presentation of statistical data.

Principle 3. To facilitate a correct interpretation of the data, the statistical agencies are to present information according to scientific standards on the sources, methods and procedures of the statistics.

Principle 4. The statistical agencies are entitled to comment on erroneous interpretation and misuse of statistics.

Principle 5. Data for statistical purposes may be drawn from all types of sources, be they statistical surveys or administrative records. Statistical agencies are to choose the source with regard to quality, timeliness, costs and the burden on respondents.

Principle 6. Individual data collected by statistical agencies for statistical compilation, whether they refer to natural or legal persons, are to be strictly confidential and used exclusively for statistical purposes.

Principle 7. The laws, regulations and measures under which the statistical systems operate are to be made public.

Principle 8. Co-ordination among statistical agencies within countries is essential to achieve consistency and efficiency in the statistical system.

Principle 9. The use by statistical agencies in each country of international concepts, classifications and methods promotes the consistency and efficiency of statistical systems at all official levels.

Principle 10. Bilateral and multilateral cooperation in statistics contributes to the improvement of systems of official statistics in all countries.

1.2.3 The background to the promulgation of the UN Fundamental Principles was the end of the cold war and the collapse of the communist system in the former Soviet Union and in central and eastern Europe.

1.2.4 The emergence of new nation states and the transformation of systems of government meant that official statistics, which had played a central role in the totalitarian governments of the past, had to be reinvented; public trust had to be rebuilt; governments had to adopt new approaches.

1.2.5 The UN Fundamental Principles are approaching their tenth anniversary. The UN Statistical Commission commissioned in March 2003 a global review of the implementation of the UN Fundamental Principles and determined to prepare a report to be discussed at the Commission's next session in March 2004. As part of this exercise a questionnaire was circulated internationally as a self assessment of the way in which the UN Fundamental Principles are being applied around the world.

1.2.6 The results of this exercise, which was conducted between May and November 2003, are now to hand and are taking shape in the form of a report of the Secretary General for the March 2004 session of the UN Statistical Commission.¹

1.2.7 The Secretary General's report concludes that on the basis of the self-assessment "it seems that the Fundamental Principles of Official Statistics are remarkably well implemented". This is certainly my impression looking at the key results from the survey, some of which are set out below.

1.2.8 The survey responses came from 112 countries and Table 1 gives an overview of the response.

Table 1: Overview over recipients and respondents

	Recipients		Respondents		Response rate for this geographic area
	Total	Percent of all recipients	Total	Percent of all respondents	
Developing Countries	147	76%	73	65%	50%
<i>Incl. Least Developed Countries</i>	49	25%	15	13%	31%
Developed Countries	47	24%	39	35%	83%
Total	194	100%	112	100%	58%
Africa	53	27%	23	21%	43%
Americas	36	19%	14	13%	39%
Asia	48	25%	36	32%	75%
Europe	42	22%	34	30%	81%
Oceania	15	8%	5	4%	33%
Total	194	100%	112	100%	58%

¹ UN Statistical Commission, 2-5 March 2004, document E/CN.3/2004.21

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1.2.9 Table 2 shows the level of implementation of the principles as reported.

Table 2: Implementation of principles

	In your country, overall, this principle is:									
	Fully Implemented		Largely Implemented		Somewhat Implemented		Not Implemented		Response	Non-Response
	Total	Percent	Total	Percent	Total	Percent	Total	Percent	Total	Total
Principle 1	51	44%	50	45%	10	9%	1	1%	112	0
Principle 2	66	59%	41	37%	4	4%	1	1%	112	0
Principle 3	48	43%	56	50%	7	6%	1	1%	112	0
Principle 4	41	37%	41	37%	21	19%	8	7%	111	1
Principle 5	54	49%	47	42%	9	8%	1	1%	111	1
Principle 6	90	80%	21	19%	0	0%	1	1%	112	0
Principle 7	86	77%	19	17%	4	4%	3	3%	112	0
Principle 8	34	31%	48	44%	21	19%	7	6%	110	2
Principle 9	50	45%	55	50%	5	5%	1	1%	111	1
Principle 10	—	—	—	—	—	—	—	—	—	—

1.2.10 These results are quite striking and they do seem to suggest that the UN Fundamental Principles have achieved a remarkably speedy and effective process of dissemination and take-up. They appear to have become, quickly and without contention, the key source to which both developed and developing democratic and post communist countries look as the standard to which national statistical systems should aspire.

1.2.11 In most cases there is only one per cent of countries showing non-implementation, with the exceptions being a seven per cent non-implementation report for Principle 4 (Right of Statistical Agencies to comment on wrongful use of statistics), a six per cent non-implementation response for Principle 8 (Co-ordination) and a three per cent non-implementation response for Principle 7 (Legislation).

1.2.12 Full implementation varies from 31 per cent of countries (Principle 8, Co-ordination) to 80 per cent (Principle 6, Confidentiality).

1.2.13 It is probably helpful to reprint in full the commentary on responses to the survey question "Has a 'user council' or other advisory body been established?"

"Two-thirds of the countries reply in the affirmative. The councils and advisory bodies, however, come in many different shapes and sizes. The number of members of such councils and other bodies range from about ten to more than a hundred. Some meet frequently, others only once a year. Apart from sharing one common characteristic, which is 'representing the user interest', they have a variety of tasks and responsibilities. These may be grouped under three broad headings:

- Strategic advice on statistical policy and priorities
- Technical advice, in general or on specific statistical programs and topics and
- Co-ordination of statistical activities.

Many councils combine several of these roles. Some have set up sub-committees for technical advice. In other cases technical committees function independently from the 'general' council.

Examples to illustrate the variety of solutions are the following:

- Central Statistical Commission (51 members) assures the link between users and producers of statistics; it meets annually and has 17 advisory sub-committees. In addition, there is a Statistical Council (15 members), responsible for monitoring the quality and objectivity of statistics; it also gives recommendations concerning the co-ordination of statistical activities.
- National Statistics Council advises on issues of statistical policy and priorities. Professional advisory committees advise on major program areas.
- Advisory Committee for planning and statistical co-ordination, consisting of members from all ministries and provinces, as well as the private sector, meets once a month.

Several countries explain why they have no statistical council, or not yet. In some cases the reason is that there is either no Statistics Law (or such a law is under consideration), or the existing statistical legislation does not provide for a council. Several countries mention that, although there was no formal council, there were nevertheless committees to ensure the user-producer dialogue. Several countries mention that they have plans to establish a council. One country mentions that many ministries and organisations were in the middle of re-structuring processes and that it was therefore difficult to set up a council.

1.3 Legislation

1.3.1 The UN report highlights that many countries stress the importance of a legal basis of official statistics and the constant need to modernise this legal basis. "In fact, many countries report that their statistics law is currently under revision or express the need of such revision. In addition, many respondents suggest the importance of making such legal documents available to the public", the report notes.

1.3.2 It states that more than 90 per cent of the countries have a general statistics law that provides the authority and rules under which the National Statistical Office operates.

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1.3.3 “Inter alia general statistics laws regulate the following issues:

- the organisation of the national statistical system as a whole
- the functions, rights and responsibilities of the statistical entities within a decentralised system, in particular of the National Statistical Office.

1.3.4 “And in more detail, statistic laws define or regulate:

- the coverage of the statistical activities
- the independence of the National Statistical Office and the position of the Chief Statistician
- the relationship between the National Statistical Office and respondents, in particular their obligation to provide information and at the same time confidentiality protection on the part of the National Statistical Office, as well as penalties for non-compliance in both cases
- access to administrative records
- release practices and principles of dissemination of data.

1.3.5 “Furthermore in some cases the law also mentions/covers:

- ‘the citizens’ right in getting official statistics’
- the provision of anonymised micro data for research purposes
- the establishment and functions of an advisory council
- international statistical co-operation
- the obligation to minimise the reporting burden, for example, through co-ordination mechanisms within the statistical system and
- co-ordination within a countries statistical system.”

1.3.6 The report notes that some countries state that their law is very old and too general and expressed the need for modernisation.

1.3.7 When Willem De Vries now the acting Director of the UN Statistical Commission, examined the organisation of official statistics for the United Nations he noted that “a general statistics ‘law’ of some sort exists in a large majority of the countries concerned. The only real exceptions are the United Kingdom and United States, although in the United Kingdom a substantial part of the work of the government statistical services is controlled by specific acts of parliament.”

1.3.8 He noted ‘however’ that the general statistics laws vary greatly in scope and nature, some describing the functions of the statistical agency in great detail, many regulating the obligation to provide information, some having national statistics agencies placed directly under the Council of Ministers and others such as the

United States where the bureau which co-ordinates official statistics is part of the Office of Management and Budget, an institution within the Executive Office of the President.

1.3.9 De Vries noted that in almost half of the countries concerned the national statistical agency was attached to a specific ministry.

1.3.10 Whilst it is not the purpose of this report to examine the statistic laws of every country it is notable that many of these are now available on the UN Statistics Division web site.

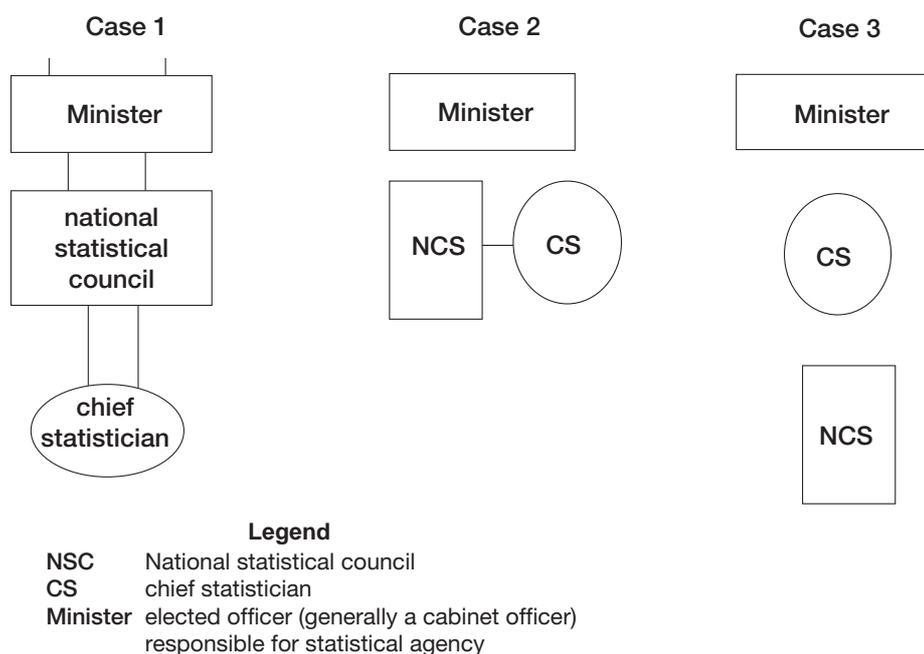
1.4 National statistical commissions around the world

1.4.1 The growth of statistical councils around the world is picked up in the 2003 edition of the *United Nations Handbook of Statistical Organisation*.

1.4.2 In the 1980 edition a note of some seven lines had sufficed to refer to the role of national statistical councils or commissions. But by 2003 a detailed section addresses the fact that since 1980 the importance of such bodies has grown and their introduction in areas where they did not already exist has become a visible trend.

1.4.3 The handbook also identifies three different sets of relationship between the Minister, the National Statistical Council and the Chief Statistician. These are set out schematically in Figure 1:

Figure 1. Illustration of three different sets of relationships between the minister, the national statistical council and the chief statistician^a



^a Even though the presiding body is indicated as national statistical council in all three cases, in fact its role ranges all the way from that of a board of directors to that of an advisory board.

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1.4.4. As can be seen the models proposed for the UK by the Statistics Commission broadly correspond to the handbook's three cases although model 1 is more nuanced and subtle.

1.4.5. As it is a useful and thought-provoking document I am attaching the UN Handbook section on national statistical councils as an Appendix to this report.

1.5. What conclusions are to be drawn from the patterns of statistical councils around the world?

1.5.1 I have not identified in my research any signs of pressure for there to be a single model of national statistical council.

1.5.2 In some countries such as the **Netherlands** the council is a clear example of a strong version of case 1. In the Dutch model the Central Commission for Statistics is responsible for promoting co-ordination of the provision of statistical information by the government and promoting the accuracy and completeness of statistics published by the government.

1.5.3 The Dutch Commission *instructs* the Director General of the Central Bureau of Statistics to carry out research and publication either of its own accord or at the request of the Minister and the Director General may appeal to the Minister against an assignment given by the Commission of its own accord.

1.5.4 Under the Dutch system Ministers may only initiate new statistical research or modify on-going research after the Commission has been heard.

1.5.5 The Director General reports each year to the Committee, commenting especially on the administrative burdens placed on enterprises and institutions as a result of the data collected by the Bureau, and the Commission then passes this to the Minister with its own report.

1.5.6 The legislation is very clear and concise and appears to work well. It does, however, place the Bureau firmly under the control of the Commission in a way which is not in accordance with the historical development of the British system.

1.5.7 In **Australia** the Statistics Advisory Council *advises* the Minister and Statistician in relation to:

- (a) "the improvement, extension and co-ordination of statistical services provided for public purposes in Australia
- (b) annual and longer-term priorities and programmes of work that should be adopted in relation to major aspects of the provision of those statistical services and
- (c) any other matters relating generally to those statistical services."

1.5.8 “Either the Minister or the Statistician, or both of them, may refer matters of the kind referred to in sub-section 1 to the Council for the purpose of seeking the advice of the Council in relation to those matters.”

1.5.9 The ASAC has up to 22 members appointed by the Minister.

1.5.10 In **Austria** the Federal Statistics Act 2000 established a Statistical Council of 15 members.

1.5.11 The members are nominated by the Federal Chancellor (4) and various ministries as well as the Austrian National Bank and a range of national organisations.

1.5.12 The Statistical Council produces a yearly report “in order for the Federal Institution to meet the basic principles” and provides recommendations “on the methods of presenting administrative data in order that these may also be used for statistical purposes; and on the co-ordination of the federal ministries and the bodies of federal statistics in matters concerning statistics from the Federation and from the European Union. The Council also produces statements on various draft directives and the planned implementation of these, on draft statutes concerning statistics, on draft decrees by the organs of the European Union for producing community statistics and carrying out statistical surveys and on recommendations on the working programmes and budgets”.

1.5.13 In **Bulgaria** the **National Statistical Council** is a body responsible for the drafting and implementation of the National Programme for Statistical Surveys, attached to the President of the National Statistical Institute.

1.5.14 It also includes representatives of a number of ministries and other bodies and is chaired by the President of the National Statistical Institute.

1.5.15 Its role includes: “to adopt a long-term strategy for the development of statistical activities; discuss the proposals from the bodies of statistics for including statistical surveys of inter-institutional significance in the draft of the National Programme for Statistical Surveys and takes decisions for including particular surveys specified in kind, scope and executives; draft the National Programme for Statistical Surveys and present a statement related to its financial provisions to the Ministry of Finance; approve a list role of the structural units in the government administration which are bodies of statistics”.

1.5.16 In the **Czech Republic** the **Czech Statistical Council** is established by the Czech Statistical Office as an advisory body. It is headed by the President of the Czech Statistical Office. The members of the Council are appointed and recalled by the President of the Czech Statistical Office from among experts in statistical theory and practice. The Council has at least 11 and at most 21 members.

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1.5.17 The Council considers the programme of statistical surveys. Other assignments and working methods of the Council are stipulated by a statute, issued by the President of the CSO.

1.5.18 **Statistics Denmark** is an independent institution under the direction of a Board of Directors consisting of the National Statistician as Chairman and six other members with insight into social and economic conditions, including business, industrial and labour conditions. The six members will be appointed by the Minister for Economic Affairs for maximum individual terms of four years. The Board will establish its own rules of procedure.

1.5.19 The Board “will decide the working programme for Statistics Denmark ... and will include rules for treatment of the co-ordination matters ... and of matters concerning the co-ordination of public and non-public statistics. It will decide on the extent and the manner in which the information referred to shall be collected ... the Board shall also consider questions submitted by the National Statistician ... at the recommendation of the Board the Minister for Economic Affairs may establish the necessary rules for the implementation and application in Denmark of the European Communities legislative acts on the collection and processing of statistical information. ... the professional and administrative management of Statistics Denmark rests with the National Statistician.

1.5.20 In **France** a very large **National Council of Statistical Information** with about 100 members is chaired by the Minister of Economic Affairs. It has a board of 20 members. There are 16 sub-committees for different functional or sectoral statistical fields. Its role is to ensure consultation between producers and users of official statistical information and to advise in particular on the annual programme of statistical surveys, the multi annual statistical programmes etc.

1.5.21 The main national statistical agency, INSEE, is a Directorate General within the Ministry of Economic Affairs and Finance and it has independence in technical and scientific matters including the publication of statistical results. In deciding its work programme it takes into account budgetary restrictions and the opinions of and agreements with the NCIS.

1.5.22 In **Germany** the **Federal Statistical Office** has an Advisory Committee attached to it in accordance with the Federal Statistics Act of 1987.

1.5.23 Its chairman is the President of the FSO and the members include representatives of Federal Ministries, the Federal Audit Office and other Federal institutions as well as the heads of the Statistical Offices of the Laender and the Federal Data Protection Officer.

1.5.24 Other members of the Advisory Committee include representatives of communal associations, commerce, industry and employer organisations, trade unions, agriculture and institutes for economic research and for higher education.

1.5.25 The Advisory Committee advises the Federal Statistical Office on fundamental questions of statistics. The FSO examines the recommendations and suggestions of the Advisory Committee and uses them according to its administrative needs and financial possibilities. The Advisory Committee has a system of technical committees and expert groups.

1.5.26 In **Hungary** there is a **National Statistical Council** established “in order to assist the operation and the co-ordination of the work of the official statistical service, to promote the representation of the interests of society and to enforce the requirements of data users as well as to form an opinion on the draft of the National Data Collection Programme”.

1.5.27 The NSC has a number of members including organisations belonging to the official statistical service, interest groups, the organs of social insurance, scientists and interestingly at the meetings of the NSC “the Commissioner for Data Protection shall participate as a permanent invited guest”.

1.5.28 The members and upon the proposal of the members – the Chairman – shall be appointed for a definite period of time by the Prime Minister. The proposal for the appointment to be made by the President of the SCO.

1.5.29 In **Ireland** the **National Statistics Board** consists of eight members one of whom is the Director General of National Statistics, two are civil servants in the Prime Minister's Department and the Department of Finance and five are persons “of proven ability and experience in relevant fields, two of whom shall be nominated by the Prime Minister and three of whom shall be nominated by such organisational or organisations as the Prime Minister considers to be representative of the users of official statistics and providers of information” under the Act. The Board's functions are to guide with the agreement of the Prime Minister the strategic direction of the office and include in particular:

- (a) “establishing priorities for the compilation and development of official statistics
- (b) assessing the resources of staff, equipment and finance which should be made available for the compilation of official statistics
- (c) arbitrating, subject to the final decision of the Prime Minister, of any conflicts which may arise between the office and other public authorities relating to the extraction of statistics from records or to the co-ordination of statistical activities”.

1.5.30 The Board is specifically debarred from intervening in particular functions assigned to the Director General or having access to information which could be related to an identifiable person or undertaking.

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1.5.31 In **Israel** the **Public Council for Statistics** consists of representatives of state agencies, institutions of higher education and research and public bodies and of experts on statistics and on economic and social subjects.

1.5.32 Its functions are “to advise the Prime Minister and other ministers on matters relating to the statistical acts of state agencies; to advise the Statistician on matters relating to statistical acts which are performed by the Bureau; for this purpose, the Council may inspect questionnaires addressed to the public; to receive from state agencies their schemes for the performance of statistical acts and give an opinion as to co-ordination between such agencies in respect of such schemes; to make proposals for rendering more efficient and developing statistical acts of state agencies”.

1.5.33 In the **Netherlands** the **Central Commission for Statistics** is responsible for promoting co-ordination of the provision of statistical information by the government and promoting the accuracy and completeness of statistics published by the government.

1.5.34 Under Article 18 of the Act the Commission “shall instruct the Director General to carry out statistical research and to publish the statistics compiled on the basis of such research either of its own accord or at the request of the minister. The Director General is required to carry out the Commission’s instructions. The Director General may appeal to the minister against an assignment given by the Commission of its own accord.”

1.5.35 Except in urgent cases ministers will only initiate new statistical research or modify on-going research after the Commission has been heard.

1.5.36 The Commission has up to 11 members including the Chairman and its Secretary is an officer of the Central Bureau of Statistics.

1.5.37 The members are appointed and dismissed by Royal Decree and members are nominated after recommendation by the Commission.

1.5.38 The Director General submits an annual report for the Commission including an insight into the administrative burden placed on enterprise and institutions as a result of data collection by the CBS. The Commission then reports to the minister enclosing the report of the activities of the CBS previously mentioned.

1.5.39 The minister in turn sends the report to the lower House of Parliament.

1.5.40 Every six years the Commission submits a report on its own performance and responsibilities with proposals for desired changes”.

1.5.41 It is noteworthy that in **New Zealand** there is no National Statistical Council or similar body.

1.5.42 **Statistics Norway** has an Executive Committee and a Director General. The duties and composition of the Executive Committee include:

- a. “shall discuss and stipulate the long-term programme, the draft budget and the annual work programme proposed by the Director General and place these matters and the Annual Report before the Ministry. Otherwise the Executive Committee plays a general supervisory role with respect to the development of official statistics under the Activities of Statistics Norway.
- b. “the Executive Committee shall have seven members; the Minister of Finance shall appoint the Chairman, its Vice-Chairman, five ordinary members and deputies for a period of four years.”

1.5.43 In **Poland** the **Statistical Council** is subordinated to the President of the Council of Ministers and determines the draft programme of statistical surveys and makes recommendations on new surveys, evaluates the programme, provides opinions on the appointment and recalling of the President of the SCO and on the budget.

1.5.44 It consists of 17 members including state administration bodies and local authorities, employer, social, professional, trade union, social and economic science and other members.

1.5.45 In **Slovakia** the **Statistical Council** is a permanent expert advisory body for the President of the Statistical Office in proposals and recommendations.

1.5.46 **The Statistical Council of the Republic of Slovenia** is a professional methodological advisory body for strategic and development questions of national statistics. Article 13 of the Slovenian law has a rather detailed description of functions.

1.5.47 **The South African Statistics Council** has a detailed list of categories of members. It advises the minister, the Statistician General or an organ of state which produces statistics with regard to matters referred to it; “any matter regarding the collection, processing, analysis, documentation, storage and dissemination of statistics, including the taking of the population census, which should, in the opinion of the Council, be studied or undertaken”; the elimination of unnecessary overlapping or duplication and any other matter deemed necessary or expedient for achieving the purpose of the legislation plus the general appropriateness to the country’s needs of the services provided by Statistics South Africa. It must furnish an annual report, may issue public statements etc. This is an interesting model which might provide drafting ideas for the United Kingdom.

1.5.48 In **Spain** a special law relates to the **Higher Statistical Council**, described as a state statistical services advisory body attached to the Ministry of Economy and Finance of which informants and producers and users of statistics are members.

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1.5.49 Its mission is to contribute to co-ordinating statistics, to better use of the resources allocated for their production and to bring them closer to users' need for information, and also to facilitating the supply of primary data by informants.

1.5.50 There is a useful list of duties including to draft proposals and recommendations and to finding opinions. The Chairman is the Minister of the Economy and the Vice-Chairman and President of the National Statistical Institute.

1.5.51 The **United States**, as Willem De Vries noted, does not have a single legislative model for its official statistics. There is no single national statistical agency in the United States and nine departments of government have statistical agencies within them.

1.5.52 The Office for Management and the Budget is responsible for oversight, co-ordination and policy direction of federal statistical activities. Its functions include planning, co-ordinating, establishing government-wide policies, principles, standards and guidelines and the evaluation of statistical programmes and agency performance. These functions are carried out by OMB's Statistical Policy Office.

1.5.53 Public accountability is primarily handled by different committees of the United States Congress which oversee the activities of the statistical agencies and OMB. Most statistical agencies also have advisory groups which provide professional advice on methods and practices.

1.5.54 There is, however, a body which supports all the statistical agencies by carrying out inspections and studies to improve the effectiveness of the federal statistical system. This is the **Committee on National Statistics of the National Academy of Sciences** and in my discussion with the National Statistician in the context of my earlier report on UK regulatory comparators Mr Cook praised the quality of work of the Committee on National Statistics and suggested that it was a body with which there could be fruitful contact. I return to this issue later in the present report.

1.5.55 In 2003 Eurostat examined the statistics systems of the **13 candidate countries**.² The analysis included a helpful survey of the arrangements for Statistical Council, where they exist, in Bulgaria (BG), Cyprus (CY), Czech Republic (CZ), Estonia (EE), Hungary (HU), Latvia (LV), Lithuania (LT), Malta (MT), Poland (PL), Romania (RO), Slovak Republic (SK), Slovenia (SI) and Turkey (TR). Table 1 sets out the results.

1.5.56 Eurostat notes that “almost every candidate country has a council to guide and advise the statistical body on plans and programmes for surveys. Estonia and Latvia are currently exceptions. Estonia works with ad hoc advisory committees on different statistical areas, whereas the Central Statistics Bureau of Latvia reports directly to the Ministry of Economy. Malta has a statistics authority that fulfils the role of statistical council and also has the national statistical office as its sole executive body. Bulgaria has both a high statistical council, which is technically oriented, as well as a national statistical council for policy-making.”

1.5.57 Eurostat’s report further observes that: “In general the advisory bodies comprise both providers and users of statistics. They have a key role in recommending the programme of surveys and other activities conducted each year. In some countries the council members are appointed by the head of the National Statistical Institute (Bulgaria, Czech Republic). In other countries such as Cyprus, Lithuania, Poland, Romania and Turkey, the appointment is made by the Government (Prime Minister). There are other cases where the council members are appointed by the respective organisations which they represent.”

² Enlarging the EU Statistical Network, Eurostat 2003

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Table 1

CC	NSI	Statistical Council	
	Appointment of NSI Leadership and Term of Service	Number of Members Term of Council	Members appointed by/ Council chaired by
BG	Prime Minister, upon nomination by Decision of the Council of Ministers, appoints President of NSI and two Deputy Presidents for seven years	High Statistical Council (HSC) with 20-35 members; term is not defined; National Statistical Council (NSC) with 16 members; term is not defined; Other Councils ¹	HSC members are nominated by President NSI; Chairperson is elected among its members. NSC members are nominated by heads of respective unit they represent and chaired by President NSI.
CY	Public Service Commission appoints Director of CYSTAT on a permanent term.	Statistical Council with President and 10 members (5 government and 5 from associations and the University) for a five-year mandate.	Council of Ministers Director-General of Ministry of Finance is the current President.
CZ	President of the Republic appoints CZSO President upon the proposal of the Government. Term of appointment is not defined.	Statistical council with 11–21 members. Term not defined.	Appointed and chaired by CZSO President.
EE	Minister of Finance nominates Director-General of SCE on permanent terms.	No statistical Council. There are permanent and <i>ad hoc</i> working groups on different statistical areas.	Not applicable.
HU	Prime Minister appoints President KSH for six years, renewable twice maximum.	Statistical council with 33 members for a term of three years.	Members appointed by the respective organisations they represent. The Chairman appointed from membership by Prime Minister upon recommendation of the other members and submission of the KSH President.
LV	Cabinet of Ministers, upon recommendation of Minister for Economy appoints President CSB in compliance with law on state civil service. The two Vice-Presidents are appointed by the President CSB.	No State Statistical Council. Regular working groups are established in the most important statistical domains. CSB reports direct to Ministry of Economy.	Not applicable.
LT	Prime Minister appoints (and may dismiss) Director-General of SL for a fixed five-year term.	Statistical council is an advisory body with 22 members who approve their own council composition and its regulations; term not defined.	Appointed by the Government. Chaired by Director-General of SL.

CC	NSI	Statistical Council	
	Appointment of NSI Leadership and Term of Service	Number of Members Term of Council	Members appointed by/ Council chaired by
MT	The Malta Statistics Authority, itself under the Ministry for Economic Services appoints Director-General NSO after consultation with the Minister responsible for statistics, for three years, renewable for further terms. President Incumbent is appointed for five years.	Board of Authority with six members (term one to three years), a Chairman plus the Director General of the NSO as an ex-officio member.	Members appointed by the Minister responsible for statistics. The Chairman of Malta Statistics Authority (corresponding to a Statistical Council) is appointed by the Minister responsible for statistics.
PL	The Prime Minister appoints President of GUS for six years.	Statistical council with 17 members for a five-year mandate.	Appointed by Prime Minister. Elects its own chair.
RO	The Prime Minister appoints President NSI ² .	Council for Co-ordinating Statistical Activity (CCSA) with 34 members and the NSI President (who is a council member by right) for two years.	Appointed by Prime Minister upon the proposal of the institutes they represent. Council approves its own functioning rules. Chaired by the President of the NSI.
SK	The President of the Slovak Republic, upon nomination by government, appoints President of the SO SR for five years.	Statistical Council is an advisory body of 26 members. The term of appointment is not defined.	Appointed by the President of the SO SR according to proposals of the bodies they represent. Chaired by the President of the SO SR.
SI	The government appoints Director-General SORS for five years.	Statistical council is a professional methodological-advisory body of 14 members for a four-year mandate. There are 24 statistical advisory committees established by SORS under the umbrella of Statistical Council.	Appointed by institutions they represent. Elects its own chair (who cannot be Director-General of the SORS).
TR	Minister of State, Prime Minister, and President of the Republic jointly appoints President of NSI. The term of appointment is not specified.	High Supreme Council ³ which is currently not operational. Members from 21 institutions to be appointed for a five-year term under the new law.	To be appointed by Prime Minister upon nomination by the respective organisations represented on the Council. Chair yet to be defined.

¹ Other councils set up by the NSI in Bulgaria are the Methodology Council, the Methodology & Training Council, the Technical and Technological Council and an Edring Council.

² In Romania there are no special provisions regulating the appointment, conduct and removal of the NSI President.

³ In Turkey the High Supreme Council will be re-organised under new Statistical Law currently under reform.

2. Eurostat and the European statistical system

2.1 Introduction

2.1.1 The lead body in European statistical co-operation is **Eurostat**. It is established under Treaty powers: Article 285 of the Amsterdam Treaty gives the Council of Ministers power to “adopt measures for the production of statistics where necessary for the performance of the activities of the Community. The production of Community statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators.”

2.1.2 The Statistical Law adopted by the Council in February 1997 is a Regulation which defines the division of responsibility between national and community statistical authorities. It also defines the basic conditions, procedures and general provisions governing national statistics at EU level.

2.1.3 Eurostat itself was brought within the terms of a Commission Decision also in 1997.

2.1.4 In addition to Eurostat there are two particular bodies relevant to the Statistics Commission in the European dimension. They form part of the **European Statistical System**, which comprises Eurostat and the statistical offices, ministries, agencies and central banks who collect official statistics in the EU member states, plus Iceland, Norway and Liechtenstein. The ESS is a network in which Eurostat plays a leading role.

2.1.5 The first key part of the ESS is the **Statistical Programme Committee** chaired by Eurostat which brings together the head of member states national statistical offices. It discusses the most important joint actions and programmes to be carried out to meet EU information requirements. It agrees a five-year programme which is implemented by the national authorities and monitored by Eurostat.

2.1.6 In particular it co-ordinates the development of common classifications, methodology and definitions; the implementation of common statistical surveys; and the collection analysis and dissemination of statistical data for the EU including comparisons between countries and regions.

2.1.7 The second relevant organisation is **CEIES, the European Advisory Committee on Statistical Information in the Economic and Social Spheres**.

2.1.8 It comprises two representatives per member state in the category of private members “from among leading representatives of the economic, social and scientific world” and the Presidents or Directors General of the national statistical institutes of the member states plus Commission representatives.

2.1.9 The responsibility of CEIES is “to assist the Council and the Commission in the co-ordination of the objectives of the Community’s statistical information policy, taking into account user requests and the costs borne by the information

producers". In practical terms this means that CEIES gives its opinion on the relevance of the Community statistical programme, on the way in which it is monitored and on the associated costs incurred by the Community, the National Statistical Institutes and the providers.

2.1.10 Its official "opinions" may originate on its own initiative or by request primarily from the Statistical Programme Committee. They are circulated to EU institutions and Eurostat subsequently responds.

2.1.11 CEIES is relevant to the Statistics Commission in two ways. First, it is the nearest thing to an advisory council at European level. It is therefore a relevant point of contact. Secondly its role is under re-examination internally, by Eurostat, and by the Statistical Programme Committee. The Statistics Commission may wish to continue its thinking on how CEIES could be made most effective.

2.2 Eurostat and its future role

2.2.1 Turning to Eurostat itself, the Commission will be aware that during 2002 well-publicised problems in the operation of Eurostat led to the transfer to other posts of its Director General and other leading personnel. On 9 July 2003 Mr Michel Vanden Abeele, a very experienced and decisive Director General within the European Commission, was appointed Director General of Eurostat.

2.2.2 Mr Vanden Abeele had previously been asked to reorganise the Commission's Translation Service by Vice-President Kinnock and before that had served as Director General of Taxation and the Customs Union.

2.2.3 A complete reorganisation of Eurostat is now under way. The mood in Brussels is that there had not been fraud "in the sense of people dipping their hands into the pot", but Eurostat had gone wrong by becoming too much of an enterprise rather than a public service. It had been managing contracts instead of handling statistics. There were 720 contracts being managed and it had lost its public service role.

2.2.4 The current attitude among the Eurostat staff in Luxembourg and their colleagues in the national statistical institutes is that the production of European statistics is a public service. They need to be reliable, accessible and available free of charge.

2.2.5 One particular step which has been taken in this direction is the suppression of "data shops" which had been a service providing particular statistics to private sector customers at a price. Although there could be no objection to such a service being offered by private providers it is not now seen to be a proper role for Eurostat itself.

2.2.6 Another change at Eurostat concerns its modus operandi. Although the system was based on community law, on the Treaty and Commission Decisions and Regulations, these legal underpinnings had not been used. Much business had been

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done by gentlemen's agreements between Eurostat and the national statistical institutes. Moreover, whenever Eurostat wanted national statistical institutes to do things it tended to support them financially. New regulations were therefore accompanied by money.

2.2.7 An indication of this approach was that no legal cases have been brought against member states by the Commission for non-compliance with European statistical regulations for a considerable time. This may now change. The impression is that such cases will now begin to be instituted.

2.2.8 The problem is seen to have been that there had been an excess of partnership within the system. The aim is to return to a precise legal model.

2.2.9 The new approach also seeks to overcome inadequate prioritisation. The aim is to look afresh at what kind of statistics Europe really needs. For example, much effort has been expended on calculating the balance of payments between member states of the Union. This does not happen in the United States of America. It is arguably a waste of time in a Europe with a single currency.

2.2.10 Eurostat and the national institutes also need to produce statistics more quickly. In the United States statistics are seen to be produced instantly even if they are not perfectly accurate and this is a great help in the management of the economy.

2.2.11 The new management at Eurostat has been disturbed by the enormous amount of time spent by statisticians in committee meetings. In particular the Statistical Programme Committee, which brings together national statistical institutes with Eurostat, is thought to have had too many meetings which were very demanding on staff time. These have been cut from four to three meetings a year. Such discussions were seen as very introspective and did not focus sufficiently on the needs of other Directorates General in the Commission. Hearings are being held with these different DGs to establish the core business and re-examine priorities.

2.2.12 Overall the mood is that the Commission had shown benign neglect of Eurostat. It wasn't seen as a Directorate General in the ordinary way. It had done its own thing and spent a lot of its energy on extra-EU activities including in the developing world. It was now pulling back to its core responsibilities. The Director General has a weekly meeting with the Commissioner and it is being much more tightly run.

2.2.13 Amongst the priorities are the structural indicators. The focus is shifting to look at population and migration studies and also to look at the structure of industries and become much better at producing statistics on services.

2.2.14 Short-term indicators, prices, incomes, balance of payments of external commerce are also seen as important.

2.2.15 Regional breakdowns are increasingly significant and comparisons between regions and on a historic basis profoundly important.

2.2.16 In the context of new member states it is felt that organisation of their statistical services is broadly satisfactory. In the socialist system they had been well organised and played an important part in the control of the economy. From 1 May Eurostat's statistics will cover the enlarged community. It is seen as particularly important to look at the new member states' statistics in a retrospective and historical sense, to compare performance as members of the European Union with pre-accession outcomes.

2.2.17 In Eurostat it is noted that Len Cook plays a prominent part in the programme committee and there is great respect for the National Statistician and his approach. There is less enthusiasm, however, about **CEIES**, the European Advisory Committee on Statistical Information in the Economic and Social Spheres. CEIES had been established by Council regulation; there are four members per country; the representatives tended to be from universities or at best from users; and there is seen to be a decreasing level of utility from its proceedings.

2.2.18 I have the impression that Eurostat would rather see a body which brings together actual users and producers rather than loosely attached academics. It might include Unice, EuroCommerce, the big producer federations and so on.

2.2.19 There is more enthusiasm about the **IMF** and the **OECD**. It is agreed that the **UN Fundamental Principles** had been well received and were firmly established. Eurostat also seems less enthusiastic about the UN Economic Commission for Europe's work, which is considered in Chapter 3.

2.2.20 Eurostat seems less likely under new management to be close supporters of bodies such as the **International Statistical Institute** which is also considered in Chapter 3. In the same way CESD which dealt with development as a commutative, not-for-profit organisation in the old European statistical system no longer operates in this way. If this sort of work was required in the future the EC is likely either to do it itself or ask national statistical institutes to act on its behalf.

2.2.21 In rather the same way I expect Eurostat for the next couple of years to be too busy to spend much time on relations with national statistical councils. Eurostat's new management will be less eager for its staff to go to statistical conferences unless they are seen to be essential.

2.2.22 My assessment is that there is a firm set of ideas on how to rebuild Eurostat.

- It should stick firmly to its core tasks.
- It should get out of commercial activities as it is a public service.
- It should concentrate on the statistical needs of the enlarged European Union rather than becoming involved in global issues.

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- It should establish much more clearly what the Union's needs are for official statistics and deliver these on 'American' lines, more quickly and more relevantly.

2.2.23 In organisational terms it is reverting to a traditional Commission Directorate General, with strong central leadership but fully integrated into the European model and playing its part as a fully integrated part of the European Commission.

2.3 Observations and conclusions

2.3.1 The picture which emerges within the European Statistical System is one of significant impending change.

2.3.2 At one level Eurostat is reverting to its core mission. It is withdrawing from its extended contract based links with the private sector to become a more traditional public service.

2.3.3 It is less interested in global and international dimension and more concerned to be effective and professional within the European Union itself.

2.3.4 It is particularly concerned to provide more timely statistics for the European Union. It sees itself as just another Directorate General of the Commission operating according to the Treaty and under a strict legal regime.

2.3.5 It seems much less interested in plethora of international conferences, seminars and discussions and not hugely interested in the work of statistical councils.

2.3.6 As a result both the **Statistical Programme Committee** which brings together national statistical institutes and the advisory body **CEIES** are undergoing serious re-thinks about how they should operate in the enlarged union.

2.3.7 In both cases they are likely to have fewer meetings and in the case of CEIES there may be a fairly comprehensive redesign. This may even extend to the revision of the Council Decision of 1991 setting up CEIES.

2.3.8 The Statistical Programme Committee is primarily relevant to national statistical institutes. Apart from being aware of its activities and the new thrust of Eurostat's approach, there is probably little further the Statistics Commission to do in this regard.

3. International organisations

3.1 This chapter examines three international organisations which may be relevant to the work of the Statistical Commission:

- (a) The Committee on National Statistics of the National Academies of the United States
- (b) The Conference of European statisticians and United Nations Economic Commission for Europe
- (c) The International Statistical Institute and International Association for Official Statistics.

3.2 The Committee on National Statistics of the National Academies of the United States

3.2.1 In my discussion with the National Statistician he drew to my attention the valuable role of the Committee on National Statistics (CNSTAT). I thought it was worthwhile to look at the way in which it operates to see whether there are transferable ideas or the prospect of any co-operation for the Statistics Commission.

3.2.2 CNSTAT serves to contribute to a better understanding of important national issues by working to improve the statistical methods and information on which public policy decisions are based. It was established at the National Academy of Sciences in 1972 at the recommendation of a President's Commission on federal statistics.

3.2.3 The Committee itself does not collect or publish data but has a broad mission to study statistical topics, to help the government make its statistical system more effective.

3.2.4 CNSTAT operates, of course, in an environment in which there is no single national statistical office and no overarching legislation.

3.2.5 Its techniques are interesting. Using volunteer members from the National Academy of Sciences and professional staff from the National Research Council it conducts arms length objective reviews of various aspects of federal statistics. It may suggest improvements. It explores what data and methodology are needed to improve understanding of the US economy and important public policy issues.

3.2.6 CNSTAT is designed to provide a forum for the timely discussion of the statistical policy and co-ordinating activities of the federal government and statistical issues related to public policy.

3.2.7 It is also concerned with furthering the application of statistics to better implement and evaluate federal programmes and improving statistical methods for application both to public affairs and to private sector decision-making, and additionally to social, economic and other sciences.

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3.2.8 CNSTAT operates by identifying and recommending appropriate experts to form panels to conduct in-depth studies on various topics. The technique is rather reminiscent of a Monopolies Commission enquiry or a much slimmed down Royal Commission.

3.2.9 The study topics concerned come from and are funded by federal agencies or the US Congress. Equally CNSTAT may identify topics and seek federal, public or private foundation sponsorship for a study.

3.2.10 While the panel members typically represent a broad range of scientific disciplines, committee members and staff are generally statisticians, economists and other quantitative social scientists. CNSTAT is funded by a consortium of federal agencies through a grant from the US National Science Foundation.

3.2.11 Some current projects are worth listing: there is, for example, a panel to review the 2000 census and another panel is looking at research on future census methods for the 2010 census; a panel is being sought to review the measurement of food in security and hunger used by the US Department of Agriculture and there is a review of the Bureau of Transportation Statistics survey programmes.

3.2.12 Another panel is looking at Department of Health collection of race and ethnicity data whilst another subject being examined is the current methodologies for defining racial discrimination.

3.2.13 Completed projects include examination of the demographic and economic impacts of immigration which looked at the influence of immigration on the overall economy, especially national and regional labour markets; on federal state and local government budgets and on the future size and make-up of the US population over the next 50 years.

3.2.14 Another study looked at the creation of a national health care survey identifying current and future data needed by researchers and policy makers to assess the effect of changes in financing organisation and delivery of health care on access, quality costs and outcomes. The panel recommended a co-ordinated and integrated data system. Another interesting report looked at “principles and practices for a federal statistical agency” setting out best practice guidelines.

3.3 Observations

3.3.1 Both in the context of its general remit and in the possible establishment of an advisory panel CNSTAT may provide some useful pointers.

3.3.2 The fact that it is so warmly endorsed by the National Statistician is an important consideration and it does appear that it shows a typically American eagerness to focus on matters which are significant for public policy and understanding of the economy, and to do so ahead of time.

3.3.3 It is also interesting in that it taps into the social science community structurally and provides a means by which federal agencies may harness academic thinking as well as providing a scrutiny and review function in the US decentralised model.

3.3.4 It seems to me that examination in more detail of the way in which CNSTAT works could be very useful as the Commission develops its new structure and approaches.

3.4 Conference of European Statisticians and UN Economic Commission for Europe

3.4.1 Based in Geneva the United Nations Economic Commission for Europe's statistical work is steered by the Conference of European Statisticians under the joint auspices of the United Nations Economic Commission for Europe and the United Nations Statistical Commission.

3.4.2 The main objectives of the Conference of European Statisticians are:

- to improve national statistics and their international comparability, having regard to the recommendations of the Statistical Commission of the United Nations, the specialised agencies and other appropriate bodies as necessary
- to promote close co-ordination of the statistical activities in the ECU region of international organisations so as to achieve greater uniformity in concepts and definitions, and to reduce to a minimum the burdens on national statistical offices
- to respond to any emerging need for international statistical co-operation arising out of transition, integration and other processes of co-operation both within the ECE region and between the ECE region and other regions.

3.4.3 The annual plenary sessions of the conference are attended by heads of national statistical offices. Experts from national statistical offices attend 25 or so other meetings.

3.4.4 The conference is now 50 years old and one of its major concerns is preserving its role as 'the co-ordinator of co-ordinators'.

3.4.5 It is clear that the conference has performed very useful work and indeed the UN Fundamental Principles originated from work in the Conference of European Statisticians.

3.4.6 The Bureau is chaired by the Chief Statistician of the OMB in the United States, Katherine Wallman, and the observers include the Director of the UNECE Statistical Division, the Acting Director of the UN Statistics Division, the Director General of Eurostat, the Director of the Statistics Directorate of OECD, the Director of the Statistics Department of IMF and the Chairman of the Interstate Statistical Committee of the Commonwealth of Independent States.

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3.4.7 The plenary session of the CES has become the forum in which the work programmes of all other international and supra-national agencies active in the ECE and OECD areas, including the European Union, are considered and reviewed in the context of the CES programme.

3.4.8 The conference considers that it has authority based on its comprehensive and very senior membership and its long standing history of scrutinising and co-ordinating international statistical work.

3.4.9 At plenary sessions the most important item is the integrated presentation of the programmes of work of the 25 or so international agencies, and the single comprehensive document is intended to bring together all the information necessary to allow the plenary session to make well-informed decisions about future work in its own programme and to comment and give advice on statistical work currently undertaken by other institutions. The work is considered in the light of objectives defined by national statistical offices rather than by international secretariats.

3.4.10 Other important work strands of the conference include measuring the activities of multi-national enterprises and confidentiality.

3.5 Observations

3.5.1 It is clear that the Conference of European Statisticians is a valuable body at which many senior figures in the statistical world come together for plenary sessions.

3.5.2 The working meetings here at first sight to be of a technical nature and more relevant to the staff of national statistical offices than to oversight bodies.

3.5.3 Against this background, I do not expect there to be a need for the Statistics Commission to develop any particularly close relationship with the conference. Its staff would no doubt keep a general eye on its activities as part of their general observation of the international statistical scene.

3.6 The International Statistical Institute and International Association of Official Statisticians

3.6.1 The International Statistical Institute was established in 1885 and has 2000 individual elected members “who are internationally recognised as the definitive leaders in the field of statistics” in 133 countries.

3.6.2 It also has a number of specialist sections including the **International Association for Official Statistics**.

3.6.3 The 55th session of the ISI will be held in Sydney in 2005.

3.6.4 The IAOS comprises both physical and legal persons with scientific or professional interest in the field of official statistics, bringing together producers and users. Its objectives are:

- to promote the understanding and advancement of official statistics and related subjects and
- to foster the development of effective and efficient official statistical services, particularly in developing countries, through international contacts among individuals and organisations, including users of official statistics as well as research institutions.

3.6.5 The IAOS emphasises that it is an unofficial forum aiming at the advancement of official statistics. It sees its role as to allow official statisticians to develop informal exchanges and free discussion on new challenges, emerging issues and new methods of work.

3.6.6 It is also very aware of the need to act to encourage young statisticians to have the opportunity to benefit from professional exchanges within a free-thinking environment.

3.6.7 The IAOS held a conference in London hosted by ONS on 'Official Statistics and the new Economy' in 2002.

3.6.8 Some 340 delegates from around the world were involved and the National Statistician said: "I have been to many statistical conferences and this is one of the best organised and relevant in content that I have attended".

3.6.9 The Programme Committee was chaired by Professor Tim Holt and there was a strong mix of delegates from the United States, Asia and Africa, as well as European representation. In the focus on the new economy this IAOS gathering seemed to meet a particular need and the papers cover a wide range of interesting and relevant topics.

3.6.10 Previous international conferences have been held in Japan on 'Statistics and the Information Society' (2001) and its General Assembly took place in Berlin in August 2003, when it was decided to hold a joint conference with the IASS on 'Poverty, Social Exclusion and Statistics' which will be held in Amman, Jordan on 29 December 2004.

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3.7 Observations

3.7.1 The IAOS seems to fulfil a useful function and all the indications are that the quality of its major conferences is high and they are relevant to important new subjects.

3.7.2 It may be worthwhile for Statistics Commission staff where possible to attend these events if other duties allow.

3.7.3 Reviewing in general terms the three international organisations covered in this Chapter, I think my key impression is that there are a wide range of meetings for official statisticians in different international organisations where there is some overlap and certainly some potential for heavy consumption of time and effort.

3.7.4 There is, on the other hand, no structure which seems to me to facilitate meetings between statistical commissions and I return to this subject in my observations in Chapter 4.

4. Conclusions

- 4.1 The starting point of this report was to examine the role of the **UN Fundamental Principles of Official Statistics** adopted in 1994 and to assess whether they form a reliable basis on which to build good practice.
- 4.2 It is timely that the United Nations Statistical Commission is currently examining implementation of the Fundamental Principles as their 10th anniversary approaches, at its 35th session, and has undertaken an international survey to assess the take up of the Fundamental Principles and comments upon them.
- 4.3 The results of this exercise cover 112 countries and are striking. Almost every Principle is considered to be fully, largely or somewhat implemented by the respondents.
- 4.4 Full implementation varies from 31 per cent (Principle 8, Co-ordination Amongst Agencies) to 80 per cent (Principle 6, Confidentiality).
- 4.5 In most cases there is only a one per cent response for non-implementation, with the exceptions being a seven per cent non-implementation report for Principle 4 (Right of Statistical Agencies to Comment on Wrongful Use of Statistics), a six per cent response for Principle 8 (Co-ordination) and a three per cent non-implementation response for Principle 7 (Legislation).
- 4.6 The survey report confirms the UN view that the Fundamental Principles are remarkably well implemented, although if confidentiality and legislation seem to be best implemented, prevention of misuse and national co-ordination seem to be least fully implemented.
- 4.7 The survey shows that the major problem areas that prevent a better implementation of the Fundamental Principles are: authorised and unauthorised disclosure of individual data for non-statistical purposes; political interference at the dissemination stage; the need to adapt international standards to national circumstances; and a lack of resources.
- 4.8 The survey suggests that at a general level there seems to be a strong correlation between statistical capacity and adherence to the Fundamental Principles of Official Statistics.
- 4.9 The next stage in the UN Statistical Commission's work to be determined at its March 2004 meeting seems likely to be to identify any focused action to further improve the implementation of the Fundamental Principles and a global review of statistical capacity.
- 4.10 Against this background it seems unlikely that there will be any significant change to the Fundamental Principles in the short to medium term and that they can indeed be relied upon at a satisfactory base for best practice in the United Kingdom.

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4.11 In terms of national legislation it is noteworthy that although most countries except the United States and the United Kingdom now have general statistics laws these vary greatly in their scope and nature. The UN survey exercise also picked up that a number of countries consider their laws to be outdated and in need of reform, although there have also been a significant number of new laws passed during the 1990's, especially in post-communist countries.

4.12 It is clear that the international norm will be that countries have a national statistical law and this is certainly the case in the European Union.

4.13 The counterparts to the Statistics Commission internationally are often referred to in generic terms as **National Statistical Councils**.

4.14 These take different forms – in a relatively small number of countries they directly control the National Statistician; in other cases they provide advice both to the government and to the National Statistician; and in another group they are advisory bodies subordinated to the National Statistician. There seems little pressure internationally to harmonise these models and countries tend to choose that most suited to their particular circumstances.

4.15 In some cases the National Statistical Council has within itself technical capacity and committees dealing with detailed statistical matters; in other cases it has an advisory panel or panels fulfilling this role.

4.16 Again, there seems to be no pressure to harmonise or standardise these forms but it is possible to choose a model which is most appropriate to a country's needs and circumstances.

4.17 At the European level **Eurostat** is likely to undergo a significant change in its approach under the leadership of its new Director General, Michel Vanden Abeele, who was appointed on 9 July 2003.

4.18 Under its new leadership Eurostat will concentrate on its core operation.

4.19 Where previously it had contracted out many of its functions to other organisations, now these will on the whole be conducted in house.

4.20 Where previously the links between Eurostat and the other Directorates General of the European Commission had been weak and it had suffered from benign neglect, now they will be strengthened and it sees itself as another Directorate General of the Commission pure and simple.

4.21 One consequence of this is that it will operate more precisely under the laws applying at European level: Article 285 of the Amsterdam Treaty, which is likely to be repeated in similar form in any European Constitution, gives the Council of Ministers power to “adopt measures for the production of statistics where necessary for the performance of the activities of the Community. The production of Community statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators.”

4.22 The statistical law adopted by the Council in February 1997 is a Regulation which defines the division of responsibility between national and Community statistical authorities. It also defines the basic conditions, procedures and general positions governing national statistics at EU level.

4.23 Finally in the legal portfolio Eurostat itself is brought within the terms of a Commission Decision also in 1997.

4.24 The new focus on legalism together with the removal of contract-based services means that although National Statistical Offices may be asked by Eurostat to do work for it in future, this will be on a legal rather than a gentleman's agreement basis, and Eurostat is likely to begin to bring infringement proceedings against National Statistical Offices which have not been operating in accordance with their EU responsibilities. The reorganisation of Eurostat will also mean that it will spend less time on third world and development issues and commit fewer staff resources to international conferences and seminars.

4.25 Eurostat will aim to prioritise critical issues such as population and migration statistics and to endeavour to deliver European level statistical outputs within a time frame comparable with those achieved in the United States.

4.26 There will be a focus on structural indicators and statistics on the service sector, and also short-term indicators.

4.27 Regional breakdowns will be prioritised and there will be a special focus on the performance of the new member states once they join the Union, compared with their historical performance. From 1 May Eurostat's statistics will cover the enlarged European Union.

4.28 As part of the Eurostat reorganisation, the number of meetings of the Statistical Programme Committee, which under the chair of Eurostat brings together the National Statistical Offices who co-ordinate programme work, has been reduced from four to three.

4.29 There is also likely to be change at **CEIES**, the European Advisory Committee on Statistical Information in the Economic and Social Spheres.

4.30 Its role is: "to assist the Council and the Commission in the co-ordination of the objectives of the Community's statistical information policy, taking into account user requests and the cost borne by the information producers".

4.31 In practical terms this means that CEIES gives its opinion on the relevance of the Community's statistical programme, on the way in which it is monitored and on the associated costs incurred by the Community, National Statistical Institutes and the providers.

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4.32 Partly because of the enlargement of the Union and partly because of concern that the Committee is of declining utility, various reviews are under way to see how its role might be reinforced.

4.33 These seem to be under way within Eurostat itself, within the Statistical Programme Committee and within CEIES. Within Eurostat the mood is to seek a reorganisation of the Committee which would allow the voices of users in the form of business organisations and sector groups to come forward much more clearly in the present structure, which tends to filter them through academics and independent figures.

4.34 It may be useful for the Commission, however, to keep an eye on the way in which CEIES is likely to be re-designed and to keep in touch with its UK private members. As it parallels at the European level the work of the Statistics Commission there may be cross fertilisation of ideas and useful material to be viewed.

4.35 There is no body specifically bringing together the national statistical councils across the enlarged EU. It might be worth considering whether the Statistics Commission should develop a plan to **convene a meeting** of these bodies, to establish personal relations, exchange ideas and look at plans and best practices.

4.36 It might be possible, for example, to take some soundings about this in 2004 and to identify whether it would be seen as helpful in time for the 1 May 2004 EU enlargement celebrations. An event might then be convened for 2005.

4.37 This proposal is made very tentatively and with some hesitation, given the feeling in Eurostat that there are already too many statistical gatherings around the world. But this would be different. It would focus entirely on the thoughts, ideas, experiences and plans of the national statistical councils. I am agnostic as to whether it might lead to some more structured co-operation in the future or be a one-off.

4.38 **CNSTAT**, the Committee on National Statistics of the US National Academy of Sciences, is an organisation whose work has been strongly commended by the National Statistician.

4.39 It does not collect or publish data but has a broad mission to study statistical topics to help the government to make its statistical system more effective. It operates in the US environment in which there is no single national statistical office and no overarching legislation.

4.40 Its techniques are interesting and might merit attention from the Commission. It uses volunteer members from the National Academy of Sciences and professional staff from the National Research Council to conduct arms length objective reviews of various aspects of federal statistics. It may suggest improvements. It explores what data and methodology are needed to improve understanding of the US economy and important public policy issues. It is also concerned with furthering the application of statistics to better implement and evaluate federal programmes and improving

statistical methods for applying both public affairs and private sector decision making and additional to social, economic and other sciences. All members are drawn from a broad range of scientific disciplines and committee members and staff are usually statisticians, economists and other quantitative social scientists. Recent and current studies cover interesting areas: census, methodology, race and ethnicity data; measurement of food insecurity and hunger; bureau of transportation statistics survey programmes; impact of immigration on the overall economy especially national and regional labour markets; the national health care survey etc.

4.41 As the Statistics Commission begins to consider setting up an advisory panel of experts in the context of its developing work, it may find it useful to examine in more detail the way CNSTAT works and to look at transferable lessons.

4.42 Although the **Conference of European Statisticians**, of which the UN Economic Commission for Europe is the parent body, carry out valuable roles and hold useful conferences (and indeed are the precursors of the UN Fundamental Principles), examination of their programmes does not reveal any particular area in which the Statistics Commission needs to be closely engaged.

4.43 In the same way the International Statistical Institute and the International Association of Official Statisticians are membership bodies which perform useful roles but again which show no particular focus for the Statistics Commission.

4.44 In summary this review leads to the following recommendations:

4.44.1 The UN Fundamental Principles are a solid base for the promotion of best practice in any new legislative framework.

4.44.2 Eurostat is undergoing a change back to its core business and this will effect the operation of the European statistical system: the Statistics Commission should keep this under close observation.

4.44.3 Among the plethora of statistical organisations and conferences there appears to be no body which brings together the National Statistical Councils, the counterparts of the Statistics Commission, themselves. The Commission should consider an experimental one-off gathering to exchange ideas between the Councils in Europe which might be held in the year following the enlargement of the European Union.

4.44.4 As it moves to set up an advisory panel of experts the Commission should study closely the imaginative and successful work of CNSTAT, the Committee of National Statistics of the US Academy of Sciences.

(Extracted from the *UN Handbook of Statistical Organisations*, 2003 edition)

APPENDIX

D. The national statistical council

1. Oversight or advice

“...Irrespective of the degree of centralisation of the national statistical service, a national statistical council or commission, composed of representatives of the private sector, the universities and Government, may be established either at the top of the external committee structure or independently of it... A top-level co-ordinating council may serve as a guiding and protective device – but mainly as regards the solution of problems of a general nature. Whether the benefits derived justify the cost is likely to depend, to a large degree, on national circumstances, including the political situation.”¹

112. In the 1980 *Handbook*, this passage constitutes the only reference to councils as advisory or governing institutions. Since these words were written, the importance of such bodies has grown, and their introduction in areas where they did not already exist has become a visible trend. Their roles vary,² but it is possible to state the following, taking into consideration their formal mission and the responsibilities they have assumed as their relationship with the statistical agency and its senior officers has flourished:

- A national statistical council can be used for the defence of the statistical agency. It exists to protect the statistical agency from attacks to which it cannot properly reply owing to restraints on public servants.
- The council can assume the role of guardian of fundamental values such as the protection of privacy.
- The council is the ultimate guarantor that, within existing resources, the statistical programme as defined by the chief statistician and instituted by his/her agency preserves the best possible balance among contending claimants for statistical attention, including economic, environmental and social statistics; national and regional details; and reliability and timeliness.
- The council is the interlocutor a minister might choose if he/she wishes to have the professional opinion of the chief statistician validated by a group of impartial experts.
- The council is the body a minister could turn to for advice and succession management in the case of a disagreement with the chief statistician.

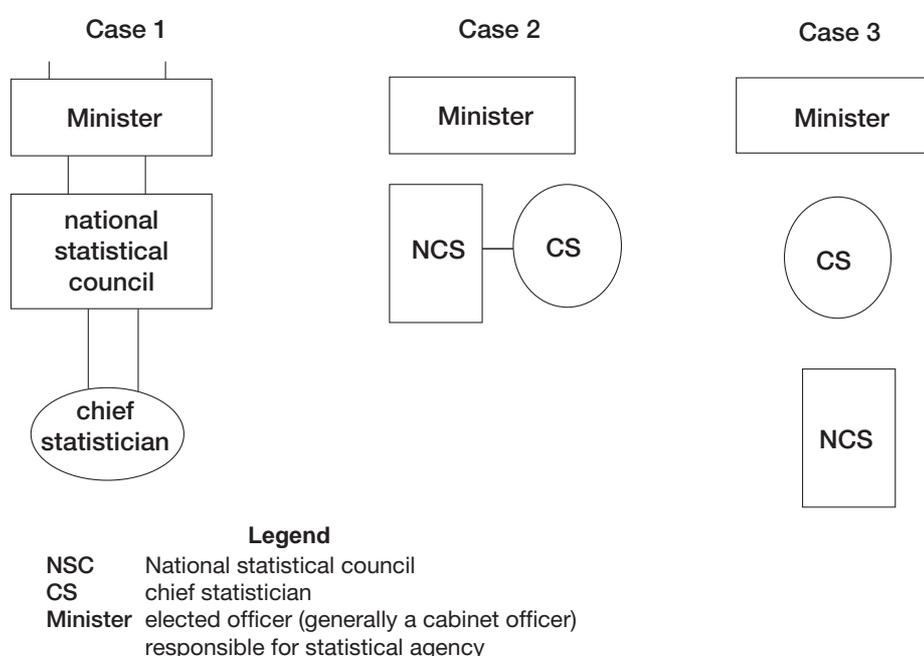
¹ 1980 *Handbook*, pp. 12-13.

² An example of a fairly typical advisory structure can be found in *Framework Document: Office for National Statistics* (London, 1996), para. 1.5, which states: An Advisory Committee will advise the Director on the statistical work of the Office, on annual corporate targets and on his responsibilities as Head of the Government Statistical Service.

- The council’s proceedings would constitute a venue for registering opinions about the output of the statistical agency.

113. Since the various roles above imply different relationships – to the chief statistician, to the minister and to the public – it is also necessary to examine how the council may or should be inserted at the highest level of communications. The schematic presentation in figure 1 summarises a few of the possible basic relationships between a statistical agency and what is referred to in the 1980 *Handbook* in a generic way as a ‘national statistical council’.

Figure 1. Illustration of three different sets of relationships between the minister, the national statistical council and the chief statistician^a



^a Even though the presiding body is indicated as national statistical council in all three cases, in fact its role ranges all the way from that of a board of directors to that of an advisory board.

Case 1

114. In this case there is no formal contact between the head of the agency and the minister. The chief statistician answers to, and receives broad guidance from, the council, whereas the minister instructs, and is advised and reassured by, the council.

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Case 2

115. While the chief statistician takes direction from the minister,³ the minister communicates with both the chief statistician and the council. It is also the minister who appoints the members of the council, and it is to him/her that they are ultimately accountable.

Case 3

116. The chief statistician appoints the council. Their advice may be freely shared with the minister, but only the chief statistician is ultimately accountable to the minister.

117. The texts of statistical acts of many countries are crowded with references to a statistical council or commission with real and imaginary powers. Often it is said that the council has either never met or has only had its initial ceremonial meeting. It is actually a loss of credibility to specify in detail what a council should do but not to be able to follow through with constituting it and seeing that it has documented meetings out of which is generated a flow of advice. It follows that in approaching this matter, the chief statistician (or the minister, or both) should:

- Choose from the available list the roles they feel are the most important in the medium term and which will therefore establish the powers assigned to the council;
- Identify those individuals who possess the knowledge and prestige to sit on the council; ensure their availability; and assess the likelihood of their being active and interested members.

2. Membership

118. The body of members on the council should be neither too big nor too small (probably somewhere between 10 and 40 members). Too small a council removes legitimacy, because some perspectives and points of view will not be represented. Too large a council will make meetings and debates unwieldy, difficult to schedule and to summarise, and altogether too costly. Clearly the scale will be a function of the usual variables such as the size of the country, the size of the office, per capita income and social interest in statistics.

119. The members must be selected on the basis that a variety of opinions and perspectives are sought, but by and large they must share an understanding and interest in quantitative analysis of the economy, society and the environment. Thus, academics, business people, government officials and the trade unions should be represented. In addition, active and permanent media participation is very important, as the media are a means of disseminating data to the public.

³ Under the Australian Bureau of Statistics Act (1975), the Australian Statistics Advisory Council is written into the law. The Act specifies that the functions of the Council are to advise the Minister and the Statistician in relation to: (a) the improvement, extension and co-ordination of statistical services provided for public purposes in Australia; and (b) annual and longer-term priorities and programmes of work that should be adopted in relation to major aspects of the provision of those statistical services.

120. In large countries, countries with federal constitutions and countries where there are distinct communities, the council should be a means of making sure that all parties have a voice. While the notion of a council representing diverse interests and opinions may seem contradictory to that of a council of manageable size, both factors must necessarily be taken into account.

3. Chairmanship

121. The personality, range of acquaintances, interest and availability of the council's chairperson are key to the success of the enterprise. If no one is qualified to fill the position as the council is being launched, it is perhaps best to postpone the enterprise until someone with the right characteristics is found.

4. Secretariat

122. There are various schools of thought regarding the secretariat. According to one, the chief statistician is also the secretary *ex officio* of the council. This view fits with the provisions of case 1 (see figure 1). While the chief statistician would call meetings, propose the agenda (under the guidance of the chairman) and draft minutes, he/she would be in a subordinate position, surrendering to the chair some of the powers normally associated with being chief executive officer. This course of action is most appropriate to situations where the chair is a person of great renown and seniority who is willing to maintain a high-level relationship with the statistical agency but not to work in it as a regular officer. However, these are exceptional circumstances and do not indicate a general rule.

123. The chief statistician may act as an *ex officio* member, taking active part in the discussions of the council, usually at the invitation of the chair, or he/she may act as any other member would, although the chief statistician would naturally possess more knowledge of the day-to-day activities of the statistical agency. This is a common situation, corresponding to the relationships illustrated in case 3. This situation has the advantage that is more acceptable because the chief statistician does not surrender any of his/her prerogatives while being engaged with other members of the council in a continuing discussion on the agency programme.

124. Another arrangement for the secretariat is to designate as secretary of the council an individual from the central statistical agency, who – as a rule – does this work on a part-time basis. In such an arrangement it is important that it is somehow (e.g., through legislation) made clear to whom the secretary reports, either to the chair of the council or to the chief statistician.

125. In yet another arrangement, the chief statistician may appear before the council only when invited, and then only to answer questions from the members. This is the obvious offshoot of case 2, which is sometimes structured deliberately so that an actively involved minister would be presented with two distinct opinions on any one subject.

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126. No assumptions are made about political interference with any of these systems. In all cases, things can go wrong, or alternatively everyone can behave according to the best of expectations. In some instances, the existence of a body placed in between the chief statistician and his/her minister may prove to be an essential insulator for the statistical agency. In others, ministers may try to politicise the council and use it as an additional means to influence the behaviour of the statistical agency. In some instances, as in case 2, a minister may try to dilute a hard view expressed by the chief statistician with a more nuanced opinion arising from the deliberations of the council. In other cases, a minister may find that his/her efforts are impeded by both the chief statistician and the council. In summary, one cannot predict the behaviour of these systems without placing them in their proper context.

5. Agenda

127. To avoid a dangerous confusion of roles and responsibilities, the chief statistician should exercise careful judgement when proposing an agenda for discussion by the council. For example, he/she should not involve the council in the micromanagement of the statistical agency. Such matters as detailed costs of surveys or improvement of the efficiency of projects at the operational level should be handled within the statistical agency, without external interference.

128. However, the agenda should include such matters as the council's view of the definition of unemployment; the worth of extending activities to the field of the environment at the expense of other statistical fields; or opinions on the most acceptable balance between quality and detail. If the chief statistician keeps on insisting that these are the issues that require outside help, then he/she will not be overrun with superfluous advice, and over time, will see an improvement in the quality and value of the advice that either he/she or the minister receives from the council.

6. Frequency of meetings

129. The nature of the agenda will tend to dictate the frequency of meetings, but a few words of caution are in order. If meetings are too frequent, most members will find them too onerous, and participation will probably lessen. If meetings occur too infrequently (for example, once every two years), the members will tend not to know each other and to have forgotten whatever they learned about the statistical agency during their induction. If the group of participants is relatively small – ten to fifteen – frequent meetings are easier to schedule, whereas with a larger body of members logistics get more complicated. Also, it is best to work with fixed schedules (for example, setting a fixed day of the week) so that meeting dates are predictable.

130. The reports should be publicly available, even if the subjects discussed are not the most engaging. Technology now makes it possible to publicise such reports at low cost. Placing on the agency web site a copy of the agenda, a summary of the decisions made and a list of actual participants will help to demystify the work conducted by the statistical agency and national statistical council.

7. Advisory committees⁴

131. In addition to the national statistical council, it has been found in many countries to be useful to form advisory committees.⁵ In theory, these advisory committees could meet regarding a multitude of matters, but in practice they are most often adept at dealing with technical issues. Thus, such committees tend to be specifically oriented towards key problems of measurement such as replacing an outmoded way of measuring the flows into the labour market, estimating the productivity of sectors that have no priced output, dealing with the production of the informal sector and determining whether the CPI has a bias. The difference between these committees and the ones described in the paragraphs below is that while their opinion is authoritative they seldom deal with issues that are key to the survival of the statistical agency. Whereas certain *ad hoc* committees or commissions are convened in response to a crisis, advisory committees of the nature described here are designed mostly to avoid crises rather than to manage them.

132. Many countries have more than one such committee. The number of advisory committees depends largely on each country's capacity to support them; on the size of the community of experts sufficiently interested to take part in such discussions; and on the capacity of the agency to take notice of expert opinion and to institute recommendations where these are found to be appropriate. One benefit of such committees is that they help narrow the distance between academic and research statisticians on the one hand and practising government statisticians on the other hand, since many of the participants in such committees come from academic circles. Academic interest and participation in solving key problems of measurement narrows the gap between the two communities, and keeps official statisticians in close contact with intellectual advances that might contribute to their various branches of specialisation.

133. Advisory committees have other advantages. If their membership includes interested government officials, they improve the sense of policy relevance of current statistics. If official data are criticised because of their conceptual or methodological inadequacy, advisory committees serve as sources of respected advice, as well as protection in the face of unfair criticism. Moreover, as additional friends of the statistical agency, they contribute to its reputation as well as to its capacity to reach out.

⁴ The use of the term 'committee' here should not be confused with the prevalent use of the word 'committee' in Member States of the Commonwealth of Independent States to denote the central statistical agency.

⁵ Sometimes such committees report to the statistical agency, and in other cases to the national statistical council. For example, the Central Commission for Statistics in the Netherlands (the equivalent of a national statistical council) has about 25 standing advisory committees that handle a wide range of subject-matter areas.

8. *Ad hoc* bodies

134. The creation of an *ad hoc* body should be reserved for crisis situations. It would be pointless to convene an authoritative body chaired by someone with a great deal of prestige, whose opinion would have to be taken into consideration by the Government, if the problem under review were not of appropriate importance. For example, if users were concerned that calculation of the GDP accounts were biased or plainly wrong, the very essence of economic measurement would be affected. If not promptly addressed by a dispassionate group of experts at the highest level, such doubts could profoundly threaten the credibility of all economic figures published by the statistical agency. Two general points should be mentioned in relation to these advisory bodies:

- The membership needs to come from outside the central statistical agency.
- The reporting relationship of advisory and *ad hoc* committees varies considerably among countries and depends upon the circumstances of each individual country.

ANNEX 4 Statistics Legislation

Ian Maclean and Ulric Spencer

This is an abridged version of the original report. The full text is available on the Statistics Commission's website at:

http://www.statscom.org.uk/media_html/reports/report_ms.asp.

1 Introduction

The report considers three main issues:

- the arguments for and against legislation
- should legislation be based on principle or detail
- what should the law cover.

The requirement is to provide the Statistics Commission with relevant information on which to determine its own policies, the evidence being derived from several sources including:

- UN principles and *Handbook of Statistical Organisation*
- existing statistical laws of selected other countries, plus relevant review papers
- results of questionnaire sent to selected foreign countries
- UK practice for other professions and organisations and related laws.

2 Legislation

2.1 Reasons for legislation

A questionnaire seeking views on the relative importance of the factors in favour or against legislation was sent to selected countries. The results are set out in Table 1.

The questionnaire also asked how the Statistics Acts in the individual countries worked in practice. Results of the questionnaire show that the UK is one of the very few developed countries that does not have an overarching law on official/national statistics. (The UK is not alone 'however' in being unsure about terminology, Official and National seem to be interchangeable in all countries.) And even when there is no such law, as in France and the USA, there is an extensive network of laws. The French have laws for just about everything – confidentiality, setting up a statistics office and a national statistics council. The USA also has a multitude of laws governing each sector – health, commerce, population, etc – and have produced an excellent Statement of Principles for a Federal Statistics Agency.

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The USA and France notwithstanding, the majority of countries have passed overarching legislation, many of them several times. Historically the reason has been to provide the authority to collect statistics, protect confidentiality, prescribe penalties for non-compliance and regulate the operation of the Statistics Office. Increasingly, however, other factors have emerged which have led to the requirement for new legislation, including:

- existing legislation is too restrictive
- need to conform to international standards and extra-national requirements, especially from Eurostat
- desire to incorporate the UN Principles for Official Statistics, or at least some of them
- confirming independence of a Statistical Office
- recognition of the fact that official statistics are not just for government but also for the public at large – an essential part of the infrastructure of a democratic society
- consolidation, co-ordination, updating of existing laws and practices.

Restrictions on the use of existing data were one of the prime motives for the Irish Act in 1993, their earlier Trade Statistics Act preventing the use of the micro data collected for purposes other than those specified in the Act.

New legislation is with the Dutch Parliament at the present [December 2002]. The new law introduces new elements, notably:

The formal foundation of Statistics Netherlands as an independent executive agency, with legal personality and the **introduction of an accrual accounting system for their budget**. Is the funding nettle being grasped at last?

The formal [administrative, managerial] independence is in addition to the professional autonomy of the Office which is already well covered in previous legislation. **The significance of this change cannot be over estimated as virtually all laws to date only refer to independence in terms of professional activities.**

The issue was further probed by asking respondents to describe the reasons for the current Act replacing an earlier Act. The Polish statement is of special interest as it highlights **'the obligation to fulfil the information needs of the society'**. [Article 3 of the Act]

Austria: One basic principle of the Federal Statistics Act 2000 is the further legislative anchoring of statistics (exceptions: surveys where participation is voluntary). Furthermore, the new act addresses in its first main part the 'executive bodies of federal statistics' in the plural, thus providing for the possibility that other institutions besides the institution under public law of 'Statistics Austria', whose chief task it is, may also be entrusted per federal act with some of the tasks of federal statistics, and therefore also made subject to the application of the new act.

The institution under public law 'Statistics Austria' has two managing directors (one Director General – Statistics and one Director General – Finance), to be represented by two supervisory boards (a Statistical Council and an Economic Council).

Canada: The most recent legislative changes affecting Statistics Canada have dealt with permitting voluntary surveys, and allowing (under certain strict conditions) sharing of income tax data with provincial statistical agencies.

Denmark: Act on Statistics Denmark hasn't undergone main changes.

Finland: We are revising the Statistics Act. The most important changes will relate to data collection (more detailed provisions on obligation to provide data) and the relation of the Statistics Act to some new legal acts like the Personal Data File Act and the Act on the Openness of the Activities of the Government Authorities.

France: In France, we have no general statistical legislation, just a law passed in 1951 to specify the rules on confidentiality of individual data. It has been amended several times in order to update its different points. On several points, a secondary legislation has been passed, mainly to deal with points such as the implementation and role of our Statistical Council (Conseil National de l'Information Statistique).

Netherlands: There is more statistical legislation than the 1996 law, viz the Law of 1936 holding measures to obtain correct economic statistics. This law is the foundation for the legal obligation for business to respond to our surveys and for Statistics Netherlands to guard the confidentiality of their responses.

The 1996 Law implied an upward 'promotion' in legal status: Statistics Netherlands was founded in 1899 by Royal Decree. A change in the Constitution during the 1980s forced us to give the Central Commission for Statistics a formal legal status.

New legislation is with Parliament at this very moment. The new law is meant to integrate and replace the two existing laws. New elements will include: the formal foundation of Statistics Netherlands as an independent executive agency, with legal personality, and the introduction of the accrual accounting system for our budget. This formal (administrative, managerial) independence comes in addition to the professional autonomy of the office in terms of the programme, methodology, and publications, which is well rooted in the 1996 Law already. Moreover, the new law will better define the European component of our work, and will give us free access to data from registrations for statistical purposes.

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Norway: The present Norwegian Statistics Act is from 1989. The main change in this law from the earlier law is the right to use data in administrative registers for statistics.

Poland: Quality changes and transformation from the government statistics to public (official) statistics, which is obliged to fulfil the information needs of the society, economic entities and government (administration) bodies and local governments.

Sweden: A new Official Statistics Act got into force in 1 April 2001. The main changes in new act was the implementation of the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

There has been an increasing trend in recent Acts to open with the reasons/motives for the Act.

2.2 Attitudes to legislation

The most striking result from the questionnaire is the significantly greater importance attached to the points in favour rather than against, and the overwhelming vote in favour of openly demonstrating integrity. This is another example of the way in which opinion is in advance of practice. Integrity is rarely mentioned in the laws, but is a key element in the UN Principles and features frequently in papers written on developments in national statistics. Phrases such as 'impartial, relevant and reliable statistics are among the cornerstones of any smoothly running democratic society' (from the CEIES paper on User Requirements to the DGIN's 2002 Palermo conference) are commonplace.

There are dangers in legislation producing unexpected results, as illustrated by the earlier Irish Act, and in the UK our 1947 Statistics of Trade Act prevented, for example, the publication of a Business Register, but now that we are aware of the problems hopefully they could be minimised by careful drafting. *(See also section 3 on principle or detail for legislation)*

Table 1: Arguments in Favour/Against Legislation

In Favour	Unit/Rating Scale*
Public declaration that Government respects the integrity of the National Statistical Service/Office (NSO).	5.0
Opportunity to sign up to the UN principles for statistical service	4.0
Ensures that key controls are in place, eg who is responsible for NSO and various procedures such as appointment of National Statistics Head (NSH).	4.5
Revision needed due to existing legislation causing problems.	4.6
Consolidation/integration of scattered laws.	3.8
Updating. Many changes needed.	4.0
Requirements to conform to international standards.	3.3
Against	
The culture in which the National Statistics Service/Office operates is more important than legislation.	2.4
Legislation produces unforeseen adverse results.	2.2
Legislation introduces rigidity making it difficult to make changes.	2.6

* 5 = very important; 1 = totally unimportant

2.3 UK position

The motivation for a UK Act has been largely driven by public concern for the integrity of official statistics. The RSS meeting and publication [1989] on *Counting with Confidence* brought to the surface fears of the political manipulation of official statistics under the Thatcher government, which fed into the Labour Party manifestos of 1992 and 1997, the Green and White Papers, the Ministerial Directive, the Framework Document, and the publication of the Codes of Practice and protocols. A subsidiary factor was the debate on reliability following the damaging revisions to the Average Earnings Index which led to the inclusion in the Framework document of quality assessment as one of the Statistics Commissions responsibilities. Both factors, however, add up to the same principle – public trust in official statistics.

The UK did make a hesitant start towards legislation in 1966 when the *House of Commons Select Committee Report on Official Statistics* recommended the setting up of not one but two Standing Committees [paragraphs 61 and 83]. The one for Business Statistics was a ‘should be established’ but the one for Social Statistics was only ‘consideration should be given’! Shades of the days when Britain, if not the workshop of the world, was at least a major manufacturing nation. The end result was the setting up of the [unofficial] Standing Committee of Statistics Users in 1970 by the then head of the GSS Professor Claus [now Lord] Moser, the ESRC providing the secretariat, the RSS the chairman. Claus Moser pursued the idea of an official ‘Statistics Council’ during the 1970s but met with almost total opposition from

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within the GSS. The issue received a public airing at the 1978 SUC conference, but, as Claus resigned just before the conference, the paper was dismissed by John Boreham as interesting but impractical. Official statistics then entered the Thatcher/Rayner 'Dark Ages' where they remained till the Pickford report [1989] and the statement by the Chancellor at the Lord Mayor's banquet in 1992; "*official statistics are produced not just for the Government but for the benefit of business and the public at large*". The experience of the 1980s reinforces the view that **National Statistics needs the protection of a Law**, which enshrines the independence of the service and defines key roles and responsibilities. **'Ministerial Directives' can be changed overnight.**

The legal position on integrity is already covered by Article 285 of the Amsterdam Treaty:

"The production of Community statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality."

Authority to collect, confidentiality and penalties for non-compliance are already covered by existing legislation. The argument for overarching UK legislation is therefore based on public perception of political interference, which requires that the government publicly affirms the independence of National Statistics in a UK law.

Drafting a Bill is a major undertaking. This report can only discuss the broad outlines and the Framework Document is an excellent starting point. The aims and objectives cover key elements, such as the importance of National Statistics for democratic debate, recognition of the needs of users outside government and the setting up of the Statistics Commission as a safeguard to the independence of the statistical system. The prospect of legislation, however, not only provides opportunities for updating our statistical system but also the opening for the Statistics Commission to examine its current role and seek changes if/where necessary. The present role of the Commission is more restricted than in most other countries. As with our judicial system, the Commission seems to be partly cast in adversarial mode, protecting the public against National Statistics as well as against government interference, an arms length relationship rather than an active involvement with the National Statistician in planning the statistics programme. The dividing line between independence and involvement is narrow but this is a good time to discuss it. The role of Statistics Councils [the term Commission is rarely used in other countries] is briefly covered in section 4.

3 Principles or detailed legislation

3.1 UN Handbook

The UN Handbook summarises the arguments for a short Act based on principles or a long Act which goes into detail.

“There are benefits to both cursory and detailed laws. In some situations, a very generally formulated law that gives a great deal of flexibility to the statistical agency has worked well. Conversely, lengthy and painstakingly detailed laws have afforded key actors a great deal of protection. Of course, there are drawbacks in both cases as well. What this suggests is that a workable compromise between these two considerations should be found and that the success of the lawmaker lies in getting the compromise right. Nothing concrete can be said on the subject in a generic way.”

3.2 Current Practice

There are wide variations between countries. The Nordic countries certainly favour brevity, outlining rather than detailing the requirements, whereas Canada, the Czech Republic and Germany leave nothing to chance. Canada’s law is very comprehensive, even specifying the exact information to be collected from companies for the Business Register, and the Czechs specify in great detail the process for handing over a Census questionnaire.

Much seems to depend on the ease with which supplementary legislation can be passed and or whether codes of practice are considered effective. Given the pressures on parliamentary time in the UK, amending legislation can prove very difficult to implement, paradoxically an argument in both directions. Detailed laws may become too rigid, while a short Act almost invariably requires secondary legislation.

There is also the difficulty of reconciling conflicting principles, as in the ‘right to know’ and confidentiality. This has become an increasing problem in recent years with the developments in data storage and handling providing much greater opportunities for using microdata. Confidentiality clauses are normally coupled with severe penalties for breaking confidentiality, which leads to great caution on behalf of the staff involved in handling such data. Confidentiality has been defined in ways in which it was never intended simply because of nervousness on the part of the staff involved. Once the lawyers have said ‘well, that may breach confidentiality’ the shutters come down. In the Canadian law, the first sub-heading in the Secrecy section is Prohibition Against Divulging Information, but then there is a much longer section headed Exceptions to Prohibition, with six categories specifically identified. Given the vigour with which the Data Protection Act is being applied in the UK, a ‘principles’ Act would need to be carefully qualified in the section on Confidentiality.

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3.3 Attitudes

The overwhelming response to the questionnaire was in favour (75 per cent) of general principles, but frequently with provisos concerning issues that have caused problems in the past. Canada, Poland and Portugal favour detail, the others principles.

4 Coverage of legislation

4.1 Introduction

The debate on principles is straightforward compared to the debate on what the legislation should cover. Is it both the role and operation of National Statistics, what should be covered by the law and what delegated to a code of practice? As can be seen from Table 2 there is substantial support for allocating many elements to a code of practice. Much obviously depends on the experience of the country. Statistics release dates for example are obviously not a problem for many countries so can be safely allocated to a code of practice.

The date of the legislation is an important factor; prior to 1990 coverage was largely confined to authority to collect, confidentiality and penalties for non-compliance. Post 1990 the wider role of National Statistics has moved centre stage.

4.2 UN Handbook Selection

The UN formulated 10 principles for a statistical office in 1994. *[see Annex 5 of main report]*

- 1 Official statistics should be made available on an impartial basis to honour citizens' entitlement to public information
- 2 The need to retain trust
- 3 Requirement to facilitate a correct interpretation of the data
- 4 Entitled to comment on erroneous interpretation and misuse of statistics
- 5 Data may be drawn from all types of source including administrative records
- 6 Strict confidentiality rules
- 7 Transparency of operation
- 8 Co-ordination among statistical agencies
- 9 Use of international concepts, classifications and methods
- 10 Bi-lateral and multi-lateral co-operation

With the exception of principle 4 – comment on misuse – these principles are widely incorporated in recent legislation. Principle 1, in particular, is increasingly making its appearance, having been totally absent from earlier laws.

The Principles have been followed up by the third revision to the UN Handbook, which has been published in draft this year. The Handbook includes a review of the requirements underpinning a statistical agency, and a model law.

The points considered under Requirements for a Statistical Agency are:

- 1 Operation of a statistical office
- 2 Independence
- 3 Relevance
- 4 Credibility
- 5 Respondent policy

The requirement to provide information to the general public is again emphasised, a point reinforced in the section on Relevance, which tasks the statistical office with looking ahead to ensure that the statistics are made available for emerging policy interests. Statistical offices have been traditionally slow to catch up with external changes, eg the rise of the service sector. Credibility is given such a prominent position because the user needs to trust the data but cannot easily replicate official statistics. Credibility links with Independence. It is an essential part of it.

4.3 Countries

4.3.1 Scope

The date of the Statistics Act is critical, as prior to 1990 Statistics Acts were largely designed to provide the authority to collect statistics and to reassure the public that the data were kept confidential. It is effectively only since the UN turned its attention to the Fundamental Principles – and that was several years before the formal announcement in 1994 – that the role of statistics in democratic debate has entered the lists. This timing has also coincided with the developments in IT that have made access to microdata and data linkage a real issue, and highlighted the restrictions imposed by earlier confidentiality laws.

The scope of National Statistics is again a variable between countries, although no law details exactly what is meant by meeting the needs of the public, the prevailing interpretation is based on making existing official statistics reliable and available rather than requiring the Statistical Office to identify and evaluate users' requirements that are not met by current outputs. Italy, however, is worth a mention for the enormous breadth of its coverage and perhaps an indicator of the way National Statistics may develop from Official Statistics in the UK. Administrative data is automatically included; it doesn't have to gain the National Statistician's imprimatur.

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Table 2: Importance of points covered by legislation

		Units/Rating Scale* and % respondents	
		Rating	Code of Practice %
Role	Commitment to providing the public with statistics	4.7	–
	Impartiality/Objectivity	5.0	20%
	Confidentiality arrangements	4.8	10%
	Requirement to comment on misuse of statistics	3.6	40%
	Concern for respondent burden	4.0	50%
	User consultation mechanisms	4.7	60%
	Mission of National Statistics Service/Office	4.4	40%
	International co-operation obligation	3.4	20%
	Publication of a Code of Practice	3.8	–
	Statistics release dates practice	4.0	50%
Organisation	Authority to collect statistics	5.0	–
	Unification of statistical processes within the country	4.1	10%
	Use of administrative data	4.9	20%
	Special legal arrangements for relationship between NSO and devolved or decentralised official statistics units	4.6	–
	Role of National Statistics Head	4.4	–
	Procedure for appointing/dismissing NSH	4.6	–
	Administrative responsibility for NSH ie reporting chain	4.3	10%
	Procedure for planning & implementing statistical programme	3.3	30%
	Access to information protected by other laws	4.8	–
	Access to microdata	4.9	10%
Funding arrangements for NSO	2.3	–	
Setting up of a Statistics Council	4.4	–	

5 = very important; 1 = totally unimportant

4.3.2 Attitudes to coverage

Note 1 gives a clear impression of just how widely countries differ. The main areas may be grouped under role and organisation – what the Statistical Office should do and how it should do it. Table 2 above identifies some of the main points covered in legislation, together with the respondent's attitude rating. Respondents were also asked to indicate whether they preferred the point to be covered by legislation or a separate Code of Practice.

Brief observations include:

- The high ratings given to ‘authority to collect’ and ‘use of administrative data’ are not surprising. Producing statistics is the main ‘raison d’etre’ for a Statistical Office!
- The problems arising from confidentiality clauses are reflected in the very high ratings given to ‘access to information protected by other laws’ and ‘access to microdata’.
- ‘Impartiality’ and ‘the commitment to providing the public with statistics’ are also in the top rating ranks. Statistical offices value their independence and have recognised the shift from just serving the government’s requirement for information to becoming part of the democratic decision-making infrastructure of the country. This is reinforced by the ratings for ‘user consultation’.
- ‘Funding arrangements’ are by far the lowest rated, surprisingly low given the importance of adequate funds for the effective operation of a statistical office. It is not sure whether this is the result of adequate funding or a recognition of political reality.
- The ‘requirement to comment on misuse of statistics’ – Principle 4 of the UN list – has obviously not been taken up enthusiastically. Again, political reality is rearing its head.
- Codes of practice rather than legislation received widespread support, especially for ‘mission statements’, ‘user consultation mechanisms’, ‘respondent burden’, ‘release date practices’ and ‘comment on misuse’.

4.3.3 Key elements in legislation

Some of the key elements in any proposed legislation are discussed below:

4.3.3.1 Statistics Councils

The main debating point is whether Councils are advisory or governing institutions, but whatever role they play the UN Handbook notes that they are growing in importance. Whether advisory or governing, the overwhelming impression is that Councils co-operate closely with the National Statistician and are actively involved in planning the statistics programme. In all the Councils identified, the National Statistician is either in the Chair or attends as a right. Supporting the Statistical Office against Ministers in budget discussions was frequently mentioned in conversation. There is no doubt that National Statisticians are enthusiastic about Councils.

The [French] CNIS was created by specific legislation and is probably the most comprehensive of all Statistics Councils. Especially challenging is their claim to be the main source of information on statistical work in France.

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The Italian Council is the linking body of a tri-partite system, the other two being the Committee for Directing and Co-ordinating Statistical Information [COMSTAT] and the Commission for Guaranteeing Statistical Information [CGIS].

Councils perform several functions, including at one extreme in the Dutch model, responsibility for determining the statistical programme, which is then carried out by the statistical office. The Council was set up in 1896, and the Statistical Office was spun out of the Council three years later. A change in the Dutch constitution during the 1980s required that the Central Commission for Statistics be given a formal legal status as all permanent commissions with an independent status had to be given a legal foundation.

The Austrian Statistical Council (15 members) is responsible for monitoring the quality and objectivity of the statistical work of Statistics Austria. The scientific control by this body should ensure the practical implementation of the high standards set. The responsibilities of the Statistical Council also comprise recommendations concerning the co-ordination of statistical activities at the national level and recommendations concerning planned statistical projects of the European Union (Article 47 of the Austrian Federal Statistics Act 2000). Once a year the Statistical Council presents an activity report which has to be forwarded by the federal government to the national parliament. There is also an Economic Council (12 members) which is accountable for all business-related controlling and monitoring rights (Article 52). It is set up in a similar way as a supervisory board.

The Spanish Law is of interest as it only covers the Council and describes the role, form and operation of their Council in great detail.

Norway does not have a Statistics Council but a Board appointed by the Cabinet, supported by 30 advisory committees based on subject area. A Council is being considered but it will only be a co-ordinating body of major producers of official statistics.

Finland abolished its Council some 15 years ago, but is now relenting.

The prevailing position, however, is that the National Statistician develops the programme with the council or presents the programme to the council for approval. The UK is unique in the arms length relationship to the National Statistician.

The composition of the councils vary widely in size and so does the mix of members. Some seem to be little more than a co-ordinating point for various government departments, where as others are based on individuals and/or representatives of users.

4.3.3.2 Funding

'Budget cuts (that reduce the availability and quality of statistics) and political appointments are the two most important threats to the independence of National Statistics' (a quote from an earlier Head of the Spanish Statistical Office). With few exceptions, statistical offices throughout the world have funding problems, which could inhibit the implementation of their role in developing statistical data for democratic debate. If the hopes for National Statistics are to be fully realised, then the funding nettle must be grasped. National Statistics cannot expect a blank cheque, and it is a challenging assignment to find some formula for balancing costs and benefits that can be incorporated in the legislation.

The impact of budget cuts on quality is only too well known in Britain. The Lawson budget of 1987 boosted consumer purchases in the mistaken belief that there was surplus capacity in the economy. There wasn't, and the rest is history.

The Canadian example could be a starting point. Statistics Canada is treated at arm's length by the minister and the Government. While the Government establishes the total budget, the work programme is adjusted to meet that budget, determining how best to use its ongoing funding. Additional funds are granted for specific purposes, which have to be satisfied in the short term. In the long term, if the funds continue, they become part of Statistics Canada's base budget available to be used in the best interests of Canada's statistical system as a whole.

4.3.3.3 The National Statistician

The National Statistician is the key player in ensuring that National Statistics fulfil the high hopes placed on them. The more independence given to the National Statistician, however, the more attention that needs to be placed on how he/she implement their role as the public face and voice of National Statistics. In particular in determining the scope of National Statistics and the development of a new product policy. Will it follow the St Peter principle – whatever the NS binds shall be considered a National Statistic and the rest cast into outer darkness or are there checks and balances?

In reviewing his/her role several factors may be considered:

- 1 Managerial independence
- 2 Professional autonomy
- 3 Line responsibility

Managerial responsibility: The line reporting function to the Minister is very much an arms length control, especially in countries such as the Netherlands whose new law will include the formal foundation of Statistics Netherlands as an independent executive agency, with a legal personality.

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The natural question is: if the Minister isn't providing day-to-day control, who is? And is this sufficient?

Professional autonomy: Virtually all the laws and all the comments stress that this is most critical element in independence embracing as it does programme planning, methodology and dissemination policy. There is an overlap with Statistics Councils (4.3.3.1 above) where the various procedures are documented. Practice varies, but in many countries the degree of supervision is limited suggesting that this is another area for careful study.

Line responsibility: The majority of National Statisticians report to some variation of an economics minister, the natural result of the emphasis on national accounts and economic statistics. Given, however, the changing role of a statistical office, consideration should be given to a more neutral reporting structure. In several countries it is the Prime Minister. If statistics are to develop their full potential as an aid to decision making, both for the government and the public, then the National Statistician should be involved in the decision making process at the earliest and highest possible stage. Again, the Canadian experience shows the way forward. Their Statistics Act provides blanket access for Statistics Canada to all records held by government. The role of the Chief Statistician is fully outlined, with particular emphasis being placed on his position within the government hierarchy with the rank of Deputy Minister (non-political). As a result of his rank the Chief Statistician participates in weekly meetings with ministers, providing both personal and official access to the highest levels of decision-making.

The reporting chain, appointment and dismissal procedure for selected countries, as reported in the questionnaire, is given below. As usual there is a wide variation between countries.

Australia: Reports to the Minister in Treasury portfolio. Appointment approved by Minister based on recommendations of independent panel. The panel should include a 'community representative'.

Austria: Head reports to the Economic Council and to the Statistical Council which is responsible for monitoring the quality and objectivity of the statistical work of Statistics Austria. Head selected by independent panel from applicants applying to national advertisement; appointed by the Federal Chancellor; composition of panel: Federal Chancellery, external consultants, members of the works council.

Canada: This is somewhat complex in Canada: head reports to Parliament via the Minister of Industry, but performance is appraised by the head of the Public Service on behalf of the Prime Minister. Authority to appoint and dismiss is by the head of the Public Service on behalf of the Prime Minister. Selected technically by the Prime Minister, but on the recommendation of the Head of the Public Service.

Denmark: The Danish NSH reports to the Minister of Economic and Business Affairs. The Danish NSH is selected by the minister having consulted Board of Directors (Statistics Council).

Finland: Reports to Minister of Finance. NSH is appointed by the Government on the proposal of the Minister of Finance.

France: Even if he/she is not officially and legally the Head of the National Statistical Service, the Director general of INSEE is considered as such; he reports to the Minister of Economy, Finances and Industry (INSEE is a general direction within this ministry); each head of a statistical service outside of INSEE has in some way to report both to his/her own hierarchy within his/her ministry and to the Director General of INSEE. The NSH (the Director General of INSEE) is appointed as any other Director General or Director in the Civil Service. He/she is appointed by the Council of Ministers (chaired by the President of the Republic) on the proposal of the Minister of Economy, Finances and Industry. But we cannot consider this appointment as a 'political' appointment; moreover, 'spoil system' is not a French tradition. The heads of statistical services outside INSEE are appointed by their respective ministers (not by the Council of Ministers) on recommendation from the Director General of INSEE.

Ireland: The Prime Minister – who usually devolves to a Junior Minister. An advertisement is placed within the Civil Service and the 'Top Level Appointments Committee' submits three names to Government following an interview process. The Director General is appointed by the President of Ireland on the nomination of the Prime Minister.

Netherlands: The Minister of Economic Affairs (administrative and legal affairs, including the budget) and to the Central Commission for Statistics (statistics matters, including priorities give the budget available). The Central Commission for Statistics makes an almost binding professional recommendation to the Minister of Economic Affairs.

Norway: The Permanent Undersecretary of the Ministry of Finance. The post is advertised in the press and the NSH is formally appointed by the King, ie the Cabinet (the proposal being made by the Minister of Finance).

Poland: The President of the Central Statistical Office is appointed for a 6-year term of office by the Prime Minister, after consultation with the Statistical Council.

Portugal: Reports to the Prime Minister. Appointment by Parliament under Prime Minister proposal.

Sweden: The NSH is appointed by the Government.

USA: Appointed by Undersecretary for Research and Economics who reports to the Secretary. Selected by the minister acting independently.

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4.3.3.4 Release dates

The pattern varies. In the USA there are no exceptions – everyone is equal as in the new Austrian Law and the balance is towards a more highly restricted access regime than in the UK. Not all legislation covers release practice. In some countries, such as Denmark, it is left to ‘practice’ and 50 per cent of the respondents to the questionnaire considered a ‘code of practice’ adequate. Examples from countries responding to this survey are given below.

Australia: A Minister and supporting Departmental staff are allowed pre-embargo access to the publication where it is expected that they would need to make public comment soon after release. This is limited to a relatively small number of publications. Early release is three hours prior to embargo time.

Austria: No one is entitled to early release; no preferences are given to political decision makers in their access to information: the obligation is to publish the results of statistical surveys and to inform the responsible federal minister on the results simultaneously.

Canada: In addition to the legal provisions, a strong tradition has evolved: Statistics Canada is treated at arm’s length by the Minister and the Government. Successive governments confirmed, and reconfirmed – from the Prime Minister’s office – that statistical information is made available by Statistics Canada to all members of the public at the same time; however, a pre-release is made to a limited number of designated senior officials in the departments for purposes such as the orderly management of money markets.

A limited number of designated officials see data for 12 key series at 2:00 pm the day before release (at 7:00 am or 8:30 am) in order to prepare appropriate responses for Ministers. The Head of the Public Service must approve each case of pre-release. Only four offices have been approved for pre-release privileges for one or more series (Privy Council Office, Finance Canada, Human Resources Development, and Bank of Canada). In the approved cases, pre-released information may be passed to the corresponding Minister’s office no earlier than after 5:00 pm the day before release.

Denmark: The act includes no provisions related to data release. Danish practice is to release data at the same time for all users.

Finland: Statistics must be made accessible to all users at the same time. The Statistics Act prescribes that all statistics shall be published as soon as possible upon completion. It is also prescribed that statistics which may influence the operation of financial markets (insider statistics) must not be released to anyone prior to the official date of publication (Statistics Finland release calendars), but all users must receive the information at the exact time indicated in advance. In practice the same principles are applied to other statistics as well. The Directors of the Units decide on the release of statistics.

France: The tradition is that the concerned ministers are informed on the most important statistical results (price index, external trade, unemployment ...) a little bit in advance, but never more than one hour in advance. This situation is known by the media.

Ireland: We give advance access of one hour in the case of a few important series; this is extended to 48 hours for the Annual National Accounts. These advance access arrangements are published nationally and in the IMF SDDS.

Netherlands: No one is entitled to early release. A minor tradition of early releases (one day to one hour maximum) for certain statistics to certain Ministers is in the process of being cut down.

Norway: No one has prior access.

Poland: There is no such an authority for early release.

Portugal: National Statistics Head decides with a timescale of five hours, without any variation by statistical series.

Sweden: The head of a unit decides on questions concerning release and the timescale varies by statistical products.

USA: No one, not even the Secretary of Agriculture or the Office of the President. In extreme cases where the data are needed before release for a major policy decision, we change the release date so that everyone still gets it at the same time. There cannot be any exceptions to this policy if the statistics office is to maintain its credibility and trust for objectivity.

4.3.3.5 Role of Statistical Office

“Official statistics are no longer seen as a mere provider of data for political and administrative bodies, but also as an essential component for the information milieu in democratically constituted societies and as a permanent official reminder of real situations, sizes and problems. Statistics is an inter-connected system of tasks and solutions, not just the sum of individual surveys or projects. Topics such as ‘basic principles’, ‘professionalism’, ‘statistics as public property’, ie an open system for citizens and administrative bodies, can no longer be disregarded today when talking about official statistics. Many of these topics ought, in fact, be reflected in the legislative description of the task of official statistics.”

This statement in the Austrian Statistics Act 2000, is an excellent summary of the changed role of a statistical office. We have moved a long way from just collecting data for government.

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This new role was probed by asking the question *'are there plans to develop new statistical on series to underpin debate issues of public concern'*. Once again Canada leads the field, but it is obvious that such programmes are in their infancy. We are back to the question of funding. Most offices are hard pressed to maintain their current outputs.

The approach of selected other countries is given below:

Australia: Our programmes are continually reviewed to ensure that they are relevant to the issues of the day.

Canada: Statistics Canada works closely with other Government departments to understand emerging policy issues on the horizon and to identify gaps in the information base needed to assess policy alternatives in those domains. Initiatives and proposals to fill such information gaps are jointly sponsored with Policy departments. However, all issues related to design and execution, including questionnaire content, are the responsibility of Statistics Canada. All such surveys are subject to Statistics Canada policies, including its policy on public release.

France: There is no specific programme but of course INSEE is trying to react as soon as possible to meet new needs of the society. Debates within the CNIS may be very helpful to this end.

Ireland: In conjunction with the National Statistics Board, we are in the middle of an extensive process to scope the medium term social policy requirements. I have arranged that a strong supporting signal was issued by the Prime Minister and Treasury Departments.

Netherlands: We have earmarked part of our budget for a series of strategic research initiatives and consult amongst others the National Science Foundation on implementation.

Norway: Statistics to enlighten issues which we think (in advance) will be discussed during the election campaign (2003) are planned to be released every work day in the three weeks before the election. We have been doing this for the two last elections, with some success.

Portugal: Such a programme must be based on the results of a periodical survey on the needs of statistics users.

Sweden: The position could change as we are in favour of making official statistics as relevant as possible to public debate.

USA: Yes, we have annual data user forums open to the public where they can express concerns about our data products and suggest changes or need for new products. See the NASS web site for agenda announcements.

4.3.3.6 Quality assurance

Quality is highly regarded, but rarely specifically included in legislation, especially earlier legislation. Statistical offices universally regard quality assurance as their own responsibility, although there are references to external monitoring by a Statistical Council.

4.3.3.7 Research capability

The practice varies widely between countries. At one extreme there are those statistical offices that believe they are compromising their independence by adding their own gloss to the figures. The alternative view is that research and analysis increases the value of statistics and that the feedback from research enhances quality. Research can also help to ensure that statistics are relevant – actually answering the real question. This illustrates the wider image problem that haunts statistics in general. Hospital waiting lists statistics may have been accurate within the narrow confines in which they were defined, but if they disguise the real problem then they fall into disrepute. The real debating point was not hospital lists *per se*, but waiting time for the patient before treatment – as the National Audit Office demonstrated in its report.

The French, Italians and Canadians are strong supporters of attaching a research capability to a statistical office.

4.3.3.8 Confidentiality

Confidentiality is one of the core elements of all statistical systems essential to gaining and keeping the trust of respondents and form fillers. Severe problems, however, have emerged over the years as confidentiality clashes with access to data and can inhibit the full use of that data. Various attempts at compromise have been implemented, mainly by inserting exclusion clauses. Sometimes, as has already been noted, in the case of Ireland by passing a new law! Many countries pick out confidentiality for special treatment. The Italian Act sets up a separate Commission for the Protection of Statistical Information. The French have passed a special Decree in 1984 also setting up a similar Committee whose powers include adjudicating on requests for access to data.

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NOTE 1																		
Elements of Statistical legislation by Country																		
Topics specified in law	Australia	Austria	Canada	Czech Republic	Denmark	Finland	Germany	Hungary	Ireland	Italy	Japan	Netherlands	New Zealand	Norway	Portugal	Spain	Sweden	Switzerland
Number of pages	7		21	10	5	7	10	7+	20	18	6	6	20	3	14	41		7
Number of Articles in law	25		43	31	15	28	28	28	45	26	19	36	50	18	29	52	27/14	27
National Statistics Office																		
Establish National Statistics office	x	x	x	x	x	x		x	x	x		x	x		x	x		x
Functions/duties:				x					x					x	x	x		
Activities										x				x				
Organisation									x	x				x				
Administration										x				x				
Finance										x					x	x		
Costs							x					x			x			
Provide statistical services	x																	
Collect, process, aggregate, analyse, disseminate statistics	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	
Published data designated as official or by use of a symbol																	x	
Co-ordinate operations	x		x	x					x	x					x			x
Avoid duplication	x		x	x							x							
Attain compatibility	x																	
Maximise utilisation	x																	
Formulate standards, ensure compliance	x																	
Provide advice, assistance	x																	
Conditions of performing reporting duty/obligation to respond				x		x	x										x	x

NOTE 1																		
Elements of Statistical legislation by Country																		
<i>Functions/duties: cont.</i>	Australia	Austria	Canada	Czech Republic	Denmark	Finland	Germany	Hungary	Ireland	Italy	Japan	Netherlands	New Zealand	Norway	Portugal	Spain	Sweden	Switzerland
Secure truthfulness																		
Consolidate system											x							
Improve framework											x							
Use of administrative systems														x				
Objectives, purpose, applicability to organisations, collection principles																		x
Collaborate	x		x															
Obtain parliamentary approval for collection of new information, other than voluntary	x																	
Registers: procedures for keeping, acquiring data from, uniform use of classifications		x		x			x											x
Work Programme																		
Survey programme				x			x	x		x		x				x		x
Conduct of surveys											x				x			
Priority of sample over full surveys		x																
Compulsory/Voluntary surveys			x					x								x		
Burden on respondents		x									x							
Publishing requirements		x																
Outsourcing		x	x															
Topics covered																		
Census of Population			x		x		x				x		x					
Vital statistics								x										
Causes of death						x												

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NOTE 1																		
Elements of Statistical legislation by Country																		
<i>Functions/duties: cont.</i>	Australia	Austria	Canada	Czech Republic	Denmark	Finland	Germany	Hungary	Ireland	Italy	Japan	Netherlands	New Zealand	Norway	Portugal	Spain	Sweden	Switzerland
Census of Agriculture			x															
Trade statistics coding system			x															
Criminal statistics			x															
Financial statistics (collected by national bank)					x													
Forms																		
Promote & develop integrated statistics for country/regions			x	x	x		x											
Statistics: non-discrimination			x															
Use of sampling			x										x					
Arrangements with local governments			x															x
Informing respondents			x				x											
Sharing information			x															
Access to records			x					x	x									
Remuneration			x															
Separation & cancellation of auxiliary characteristics							x											
Data matching							x										x	
Development of methodology												x						x
Objectivity, reliability, independence																		
Timeliness, stability, integrity																		

NOTE 1																		
Elements of Statistical legislation by Country																		
	Australia	Austria	Canada	Czech Republic	Denmark	Finland	Germany	Hungary	Ireland	Italy	Japan	Netherlands	New Zealand	Norway	Portugal	Spain	Sweden	Switzerland
National Head/Chief Statistician & staff																		
Statistician: Appointment and tenure, remuneration, allowances, leave, resignation, removal	x		x		x				x	x			x					
Duties			x															
Staff	x		x						x	x			x					
Statistical officers & certified statisticians									x		x							
Enumerators, field work											x							
Temporary employees			x															
Oath of office, contractors' oath			x															
Rules & instructions			x															
Staff retirement															x			
Meetings with users									x				x					
Supplemented by protocols													x					
Annual Report	x		x							x			x					
Regulations	x						x					x						
Goals & principles to achieve international standards		x																
Reference to EU legal norms for national statistics		x			x	x	x											
Comparability with international statistics							x											
Covers secondary statistics		x																
Decentralised responsibility																		
Ministerial responsibility		x							x	x			x					
Statistics in Ministries																x		

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NOTE 1																		
Elements of Statistical legislation by Country																		
	Australia	Austria	Canada	Czech Republic	Denmark	Finland	Germany	Hungary	Ireland	Italy	Japan	Netherlands	New Zealand	Norway	Portugal	Spain	Sweden	Switzerland
Managements Councils																		
Management Board		x			x					x		x		x		x		
Statistics Advisory Council: functions, membership, remuneration, meetings	x									x								
Statistical Council		x	x				x		x			x			x			
Economic Council		x																
Statistical bodies																		
Confidentiality																		
Confidentiality, secrecy & disclosure				x		x	x		x	x	x	x	x	x		x	x	x
Data protection		x		x				x	x	x								x
Access to data		x					x											
Offences & punishments			x	x		x	x		x	x	x		x	x	x		x	x
Local responsibility for administering punitive measures		x																

NOTE 2

NATIONAL USERS COUNCILS (NUCs)

AUSTRALIA

Name, date of creation and legal status

Statistics Advisory Council
1975 – Australia Bureau Statistics Act

Composition

Chairperson
Chief Statistician
Between 10 and 20 members as determined by the Minister
Chairperson and members are part time
Chairperson appointed for 5 years

Payment to members
Determined by the remuneration tribunal

Main tasks/role/way of influencing

To advise the Minister and Statistician in relation to improved extension and co-ordination of statistical services.
Annual and longer priorities and programmes of work.
No reference to an annual report.

AUSTRIA

Name, date of creation and legal status

Federal Statistics Act 2000 supported by:

1. The Statistical Council and
2. The Central Commission of Statistics

Composition

1. Statistical Council

15 Members:

- appointed by the Federal Chancellor
- one from each of: the Ministry of Finance, the Ministry of Economy and Labour, the Ministry for Social Security and Generations, the Ministry of Agriculture and Forestry, for the Environment and the Management of Water Resources

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- one from each of: the Austrian National Bank, Austrian Economic Chamber, Presidential Council of the Austrian Chambers of Agriculture, the Federal Chamber of Labour, the Austrian Federation of Communes, the Austrian Federation of Municipalities and the Council of Heads of Provincial Government

2. Central Commission of Statistics

- DG Statistics and DG Finance of the Federal Institution
- one representative of the Federal Chancellery
- one from each of: the Federal Ministries, Audit Office, Office of Provincial Government Admin, Austrian National Bank, Austrian Economic Chamber, Presidential Council of Austrian Chambers of Agriculture, Federal Chamber of Labour, Federation of Austrian Trade Unions, Federal Conference of Liberal Professions, Austrian Chamber of Agricultural Labourers' Assembly, Austrian Federation of Communes, Austrian Federation of Municipal.
- experts of economic, scientific and cultural communities
- respective Austrian representative in CEIES

Main tasks/role/way of influencing

1. Statistical Council

- To provide a yearly report
- To provide recommendations
 - a) on the methods of presenting administrative data in order that these may also be used for statistical purposes and
 - b) on the co-ordination of the Federal Ministries and the Bodies of Federal Statistics in matters concerning statistics from the Federation and from the EU
- To release statements
 - a) on various draft directives and the planned implementation of these, also on draft statutes concerning statistics
 - b) on draft decrees by the organs of the EU for purposes of producing Community statistics and carrying out statistical surveys
- To provide statements and recommendations on the working programmes and budget

2. Central Commission of Statistics

To advise the Federal Ministries, the organs of Federal Statistics and of the Federal Institution of Statistics Austria in questions of official statistics of general concern. Fulfilment of these tasks rests with special advisory bodies (19) installed for that purpose.

DENMARK

Name, date of creation and legal status

Statistics Act 2000

Composition

National user bodies appointed on an ad hoc basis by Statistics Denmark's Board of Governors

The six currently existing Advisory Committees consist of representatives from labour-market organisations, industry, research and other organisations in the Danish society.

Main tasks/role/way of influencing

Advisory committees have been set up for the following statistical areas: Business statistics, Agricultural statistics, Economic statistics, Environmental and energy statistics, Social statistics and Research

- To give advice on Statistics Denmark's annual work programme
- To assist in matters relating to: statistical development strategy, evaluation of existing statistics, questions of priorities, data collection and data quality, questions of dissemination, etc.

FRANCE

Name, date of creation and legal status

CNIS (Conseil National de l'Information Statistique) – National Council for Statistical Information Decree n° 84-628 of 17 July 1984, on the CNIS implementing Law No 51-711 of 7 June 1951, ORDER OF 12 DECEMBER 1997, on the operation of the statistical survey quality label committee.

Composition

The Council is chaired by the Minister for Economic Affairs
It has 100 permanent members and 66 substitute members from :

- consultative bodies (4 per cent)
- associations (10 per cent)
- professional organisations (20 per cent)
- qualified experts (8 per cent)
- university staff/researchers (4 per cent)
- administrations (27 per cent)

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- the political world (5 per cent)
- trade unions (22 per cent)

Most are appointed for a term of four years, renewable.

The CNIS has an executive consisting of 15 members. In addition to the Minister for Economic Affairs, who chairs it, it is composed of the Director-General of INSEE, the Commissioner for the Plan, the Governor of the Bank of France, representatives from employers' as well as workers' organisations and two members from the Council.

Main tasks/role/way of influencing

The National Council for Statistical Information provides a forum for producers and users of public statistics. As co-ordinator of government statistical activities, it prepares a medium-term programme, and – within that framework – an annual programme incorporating all public surveys.

A forum

Government statistical departments submit their projects (surveys, registers, panels and compilations from government records) to CNIS members. The latter examine what each project seeks to achieve, how it will fit into the French statistical information system, and whether or not it deserves priority. All the stages from survey preparation to the dissemination of findings are reviewed. The ultimate aim is to reach a consensus among statistical information producers and CNIS partners, who mainly represent business and labour organisations.

A co-ordinator

CNIS approval therefore guarantees that an accepted project meets a genuine information requirement in the public interest, that is not redundant, and that it contributes to the medium-term goals defined for the field under study.

A source of information

CNIS issues an abundant literature on a wide range of topics. It is thus the main source of information on statistical work in France. A statistical survey quality label committee shall be established at the CNIS. The statistical survey quality label committee shall examine the survey plans submitted to it by the producer services. It shall evaluate the application methods planned by the surveying department and shall award, if the evaluation is favourable, a label of general interest and statistical quality. It shall propose that the competent Ministers issue the preliminary approval to which the surveys mentioned in Article 2 of the aforementioned Law of 7 June 1951 are subject.

GERMANY

Name, date of creation and legal status

Statistischer Beirat (Statistical Advisory Committee) Law on Statistics for Federal Purposes (Federal Statistics Law) of 22.01.1987, modif. 17.01.1996. Attached to Federal Statistical Office.

Composition

- one of each of: the Federal ministries, the Federal Audit Office and the Deutsche Bundesbank
- the heads of the statistical offices of the Länder
- the Federal Data Protection Commissioner
- one from each of the principal communal associations
- seven from commerce and industry and one from the employers' associations
- three from the trade unions
- two from agriculture
- two from institutes for economic science
- two from the institutions of higher education

The Statistical Advisory Committee has the right to establish expert committees or working parties for dealing with special subjects.

Mr Heilemann and Mr Pückler (CEIES members)

Main tasks/role/way of influencing

To advise the Federal Statistical Office in fundamental questions.

IRELAND

Name, date of creation and legal status

National Statistics Board

Statistics Act 1993

Composition

Chair – currently an academic and eight members, three civil servants, two from business, one Trade Union and two 'independents'.

Annex 4

Main tasks/role/way of influencing

To guide the strategic direction of the CSO and to set priorities for the collection and compilation of official statistics. The Board operates on the basis of five-year Strategic Plans. The Strategy for Statistics 1998-2002 was published in September 1998 and the Board is now working next Strategy for 2003. As its mandate includes assessing the resources required for compiling official statistics, the Board is concerned that the CSO, in implementing this Strategy for Statistics, should operate as efficiently as possible.

ITALY

Name, date of creation and legal status

The Italian National Statistical System (SISTAN) was founded in 1989. On this occasion, ISTAT was re-organised and the following bodies were created: the *Committee for Directing and Co-ordinating Statistical Information (COMSTAT)*, the *Council* (inside Istat), the *Commission for Guaranteeing Statistical Information (CGIS)*, an external body.

Composition

1. The Committee for Directing and Co-ordinating Statistical Information (COMSTAT)

It is chaired by Istat's president – as the highest authority of SISTAN – and made up of representatives from regions, provinces, municipalities, public administrations and institutions (all the bodies which constitute the SISTAN).

2. The Council

- Istat's President
- members from COMSTAT, university professors or directors of statistical research institutes
- The president of the Commission for Guaranteeing Statistical Information
- Istat's Director-General.

3. The Commission for Guaranteeing Statistical Information (CGIS)

Chairman: Independent

Members:

- university professors specialised in statistical or economic subjects or directors from statistical research institutes not in SISTAN
- top managers specialised in the same subjects from public administrations not in the SISTAN
- Istat's President attends the CGIS meetings.

Main tasks/role/way of influencing

1. The Committee for Directing and Co-ordinating Statistical Information (COMSTAT)

- To address and co-ordinate the activity of central and local statistical offices which belong to SISTAN and to provide them with statistical guidelines. It issues binding directives and orienting acts towards the statistical offices.

2. The Council

- To plan, direct and control Istat activities.
- To define the guidelines and strategies for Istat's activities and, in particular, to approve:
 - the yearly plan for objectives and expenses foreseen for the following three-year period and the yearly estimates of revenues
 - the yearly plan for the implementation of the National Statistical Programme (PSN)
 - the budget, the possible variations and the final balance
 - Istat's organisation chart, setting the central and local offices organisation, their functions, personnel and tools
 - the financial, economic and patrimonial management.

3. The Commission for Guaranteeing Statistical Information (CGIS)

CGIS was set up to guarantee the principle of impartiality and completeness of statistical information. It is an independent institution and was established at the Presidency of the Council of Ministers. Its role is:

- to supervise the impartiality and the completeness of statistical information
- to contribute to the right enforcement of laws on disclosure control to the authority for the protection of confidentiality
- to supervise the quality of statistical methodologies and information techniques used for the collection, storing and dissemination of data
- to supervise the compliance of surveys with the directives coming from the EU and international organisations
- to give advice on the National Statistical Programme (PSN).

THE NETHERLANDS

Name, date of creation and legal status

Central Commission for Statistics (CCS)

1996 National Statistics Law. The Commission is in fact the mother of official statistics in the Netherlands. It was established in 1892, in 1899 Statistics Netherlands originated from the permanent secretariat of the Commission.

Composition

11 members, appointed by the Crown on account of their personal qualities (two of them head a government department, one from the Central Economic Policy Analysis Bureau, one from the Scientific Council for Government Policy, one from the Social Science Council within the Netherlands Science Foundation, one is the deputy Director of the Dutch national bank). Its secretary is a CBS official. The Commission has some 20 advisory subject-matter subcommittees.

Main tasks/role/way of influencing

The Director-General of Statistics Netherlands reports on a regular basis to the CCS on international, especially Community, developments. Its role is:

- to authorise the statistical programme of Statistics Netherlands
- to improve the co-ordination of government statistics at large
- to recommend the appointment of the Director-General
- to authorise the access of applicants to CBS microdata
- to check on the reduction of administrative burden on business.

The role of the Commission will be enlarged when Statistics Netherlands obtains executive agency status within Dutch government. Draft legislation to that effect is with Dutch parliament right now.

PORTUGAL

Name, date of creation and legal status

The Higher Statistical Council (CSE)

The National Statistical System (NSE) created by Law n°. 2 – 15th of April 1989

Composition

Presided over by the Minister who supervises the National Institute of Statistics (INE); the Vice-president is the President of the INE.

28 members representing different areas.

Main tasks/role/way of influencing

The CSE must be consulted before any legislation creating statistics services or containing any rules affecting the structure or operation of the National Statistical System can be approved.

The CSE is responsible for:

- defining the general guidelines for national statistical activity and establishing their priorities
- guaranteeing the co-ordination of the National Statistical System, by approving concepts, definitions, classifications and other technical instruments of statistical co-ordination
- approving the plan of activities of the INE and the corresponding final report
- promoting the good use of administrative documents for statistical purposes, by recommending that administrative documents use statistical definitions, concepts and nomenclature
- making suggestions regarding the general rules and principles regulating the production of statistics mentioned in paragraph a) of paragraph 3 of article 14 of this law, whenever requested to do so by the Government
- ensure the observance of statistical confidentiality and decide on proposals for the waiving of statistical secrecy according to the law
- approving its internal regulations
- suggesting which of INE's responsibilities may be delegated in other public services departments or which should no longer be delegated, in accordance with the law.

POLAND

Name date of creation and legal status

The Statistical Council created by Law of 29 June 1995.

Composition

- 17 members
- State Administration bodies (six)
- Central Bank (one)
- Employers, Social and Professional organisations (six)
- Trade Unions (two)
- A Social and an Economic Scientist (two)

Annex 4

Main task/role/way of influencing

Article 15

1. The Statistical Council, further referred to as the 'Council', shall be established as the advisory and opinion-making organ in the field of statistics.
2. The Council shall be subordinated to the President of the Council of Ministers.
3. The responsibilities of the Council shall include:
 - (1) determination, annually, on the basis of the proposals prepared by the President of the Central Statistical Office, of a draft programme of statistical surveys for the next year
 - (2) submission to the Council of Ministers, not later than on 30 June each year, of the draft programme of statistical surveys of official statistics
 - (3) recommendations on conducting new and periodic surveys concerning a broad scope of statistical observation and related to them methodological and preparatory activities, planned for the period of the next ten years
 - (4) evaluation of the implementation of the programme of statistical surveys of official statistics and formulation of opinions on other issues having a considerable significance to the development of official statistics
 - (5) providing opinions on the motions concerning the appointment and recalling of the President of the Central Statistical Office
 - (6) providing opinions on the budgetary expenses on statistical surveys.

5 UK legislation

5.1 Relating to professions

There is a certain commonality of topics included in the acts relating to professions. They are generally concerned with:

- identification of a professional body, with a council and committees
- professional education and training leading to a recognised qualification, and their supervision
- registration and registers
- supervision of practice, disciplinary provisions
- professional conduct, code of practice, misconduct, offences, suspension/restoration, penalties, appeals
- unfitness to practice
- professional indemnity insurance (where appropriate).

Some Acts have provisions applicable only to that one profession.

5.2 Existing statistical legislation

The main UK existing legislation covers Statistics of Trade and the Census, both have run into confidentiality problems which have restricted their value especially to users outside government who tend to have a much greater requirement for microdata. There are two possible approaches. Either amend the Act or include special overriding 'exception' clauses in the new Act, where specific issues can be identified, as in the Canadian legislation, but this should be supplemented by a more general clause providing for a review of particular cases on their merits as set out in some other countries' legislation.

The following Acts are concerned with specific types of data but have no general provisions concerned with the statistics office or the national statistician (a recent creation). However, they feature confidentiality and offences.

5.2.1 Census Act, 1920 + Census Orders for each Census

It details the duties of Registrar-General in relation to censuses – data collection, report, expenses, penalties for non-response.

5.2.2 Births and Deaths Registration Act, 1953

It details the administrative procedures for registering births and deaths.

5.2.3 Registration Service Act, 1953

s.19 Annual Abstract – send to Minister number of live births, still-births, deaths and marriages registered in the year. Minister shall lay this before Parliament.

5.2.4 Population Statistics Act, 1938, 1960

Collection of information from birth and death registers in England & Wales (1938) and Scotland (1960).

5.2.5 Statistics of Trade Act, 1947

Its sections are:

- 1 Power of competent authority to obtain information
- 2 Census of production
- 3 Returns for the purpose of a census
- 4 Offences relating to returns
- 5 Power to prescribe additional subjects of inquiry by Order of Council
- 6 Duty to notify undertakings to Board of Trade (now transferred to Chancellor) or other competent authority

Annex 4

- 7 Report to Parliament
- 8 Advisory committees
- 9 Disclosure of information
- 9A Exceptions from s.9
- 10 Information from persons entering or leaving the UK by air
- 11 Orders
- 12 Notices
- 13 Offences by bodies corporate
- 15 Expenses
- 17 Interpretation

5.3 Other general legislation

Two Acts in particular need to be carefully considered: data protection and freedom of information – especially the former, as ‘confidentiality’ has been, and is, one of the major restrictions on the full development of National Statistics. Some Statistics Acts make specific reference to overriding other Acts.

5.3.1 Data Protection Act, 1998

This Act came into force on 1 March 2000. It gives effect in UK law to the 1995 EC Data Protection Directive. The Act strengthens and extends the data protection regime created by the Data Protection Act 1984, which it replaces.

The Act applies to:

- computerised personal data;
- personal data held in structured manual files.

5.3.2 Freedom of Information Act, 2000

The Act was passed on 30 November 2000. The Act will be enforced by the Information Commissioner. It gives a general right of access to all types of ‘recorded’ information held by public authorities, sets out exemptions from that right and places a number of obligations on public authorities. Only public authorities are covered by the Act. The Act will be brought fully into force by January 2005. Public authorities will have two main responsibilities under the Act. They will have to produce a ‘publication scheme’ (effectively a guide to the information they hold which is publicly available) and they will have to deal with individual requests for information.

Individuals already have the right to access information about themselves, held on computer, and in some paper files, under the Data Protection Act 1998. This is known as the 'subject access right'. As far as public bodies are concerned, the Freedom of Information Act will extend these rights to allow access to all the types of information they hold, whether personal or non-personal. However, the public authority will not be required to release information to which any of the exemptions in the Act applies. Public authorities will be obliged to provide information recorded both before and after the Act was passed.

It should be noted that only the information to which an exemption applies can be withheld. Hence if a particular document had been requested which contained some exempt information, only those specific pieces of exempt information could be withheld. The rest of the document would still have to be released.

The Act places a duty on public authorities to adopt and maintain publication schemes which must be approved by the Commissioner. Such schemes must set out the types of information the authority publishes, the form in which the information is published and details of any charges.

5.4.3 Human Rights Act, 1998

This Act does not have any specific references which relate to statistics, but it would be wise to consider its provisions in case they could lead to conflict.

ANNEX 5

Fundamental Principles of Official Statistics

Text is from the United Nations website at
<http://unstats.un.org/unsd/goodprac/bpabout.asp>

Background

The notion that international endorsement of a set of principles for official statistics was necessary was born in the Conference of European Statisticians. An international discussion process was started up, ending with the adoption of the Fundamental Principles by the United Nations Statistical Commission, the highest statistical authority in the world. The United Nations Statistical Commission, in its Special Session of 11-15 April 1994, adopted the Fundamental Principles of Official Statistics, earlier set out in the Economic Commission for Europe's Decision C (47), but incorporating a revised preamble.

Preamble

The Statistical Commission,

Bearing in mind that official statistical information is an essential basis for development in the economic, demographic, social and environmental fields and for mutual knowledge and trade among the States and peoples of the world.

Bearing in mind that the essential trust of the public in official statistical information depends to a large extent on respect for the fundamental values and principles which are the basis of any society which seeks to understand itself and to respect the rights of its members.

Bearing in mind that the quality of official statistics, and thus the quality of the information available to the Government, the economy and the public depends largely on the co-operation of citizens, enterprises, and other respondents in providing appropriate and reliable data needed for necessary statistical compilations and on the co-operation between users and producers of statistics in order to meet users' needs.

Recalling the efforts of governmental and non-governmental organisations active in statistics to establish standards and concepts to allow comparisons among countries,

Recalling also the International Statistical Institute Declaration of Professional Ethics,

Having expressed the opinion that resolution C (47), adopted by the Economic Commission for Europe on 15 April 1992, is of universal significance,

Annex 5

Noting that, at its eighth session, held in Bangkok in November 1993, the Working Group of Statistical Experts, assigned by the Committee on Statistics of the Economic and Social Commission for Asia and the Pacific to examine the Fundamental Principles, has agreed in principle to the ECE version and had emphasised that those principles were applicable to all nations,

Noting also that, at its eighth session, held at Addis Ababa in March 1994, the Joint Conference of African Planners, Statisticians and Demographers, considered that the Fundamental Principles of Official Statistics are of universal significance,

Adopts the present principles of official statistics:

Principle 1. *Official statistics provide an indispensable element in the information system of a society, serving the government, the economy and the public with data about the economic, demographic, social and environmental situation. To this end, official statistics that meet the test of practical utility are to be compiled and made available on an impartial basis by official statistical agencies to honor citizens' entitlement to public information.*

Principle 2. *To retain trust in official statistics, the statistical agencies need to decide according to strictly professional considerations, including scientific principles and professional ethics, on the methods and procedures for the collection, processing, storage and presentation of statistical data.*

Principle 3. *To facilitate a correct interpretation of the data, the statistical agencies are to present information according to scientific standards on the sources, methods and procedures of the statistics.*

Principle 4. *The statistical agencies are entitled to comment on erroneous interpretation and misuse of statistics.*

Principle 5. *Data for statistical purposes may be drawn from all types of sources, be they statistical surveys or administrative records. Statistical agencies are to choose the source with regard to quality, timeliness, costs and the burden on respondents.*

Principle 6. *Individual data collected by statistical agencies for statistical compilation, whether they refer to natural or legal persons, are to be strictly confidential and used exclusively for statistical purposes.*

Principle 7. *The laws, regulations and measures under which the statistical systems operate are to be made public.*

Principle 8. *Co-ordination among statistical agencies within countries is essential to achieve consistency and efficiency in the statistical system.*

Principle 9. *The use by statistical agencies in each country of international concepts, classifications and methods promotes the consistency and efficiency of statistical systems at all official levels.*

Principle 10. *Bilateral and multilateral co-operation in statistics contributes to the improvement of systems of official statistics in all countries.*