# An administrative data decision-making matrix – a tool for data controllers when considering the use and sharing of data

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This decision-making matrix is a practical tool which has been designed to assist public authorities and other institutions in their decisions to use and share data. The decision-making matrix helps decision-makers identify and distinguish between many different issues (legal, ethical, and cultural) in clarifying what practical steps can be taken towards responsible data sharing by distinguishing between real versus perceived barriers to such sharing. On the following page we provide a brief overview on how the matrix can be deployed. You can also see further information on this in our recently published article 'Developing a public interest mandate for the governance and use of administrative data in the United Kingdom' in the Journal of Law and Society Volume 43, Issue 3.
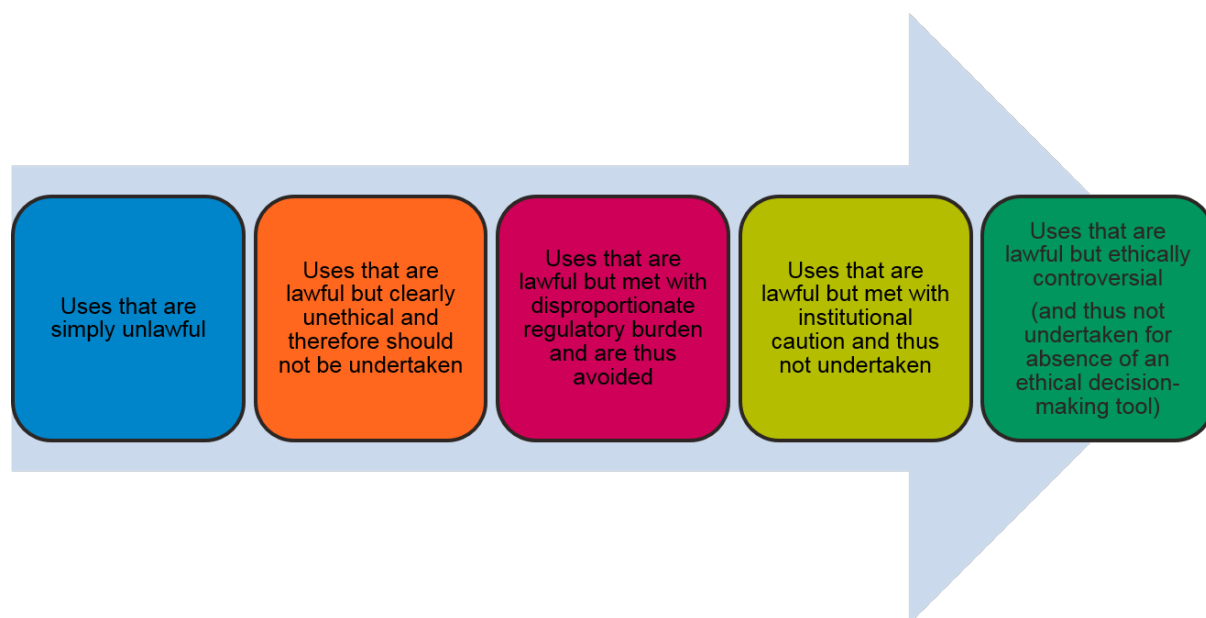
We are interested in public authorities piloting the use of our decision-making matrix when considering issues surrounding the use, retention and potential sharing of their data. We are keen to receive feedback on this and if there are any other elements to decision-making which should be considered and are not in the current iteration of the matrix. As a result of this workshop we hope to further refine this decision-making tool for the benefit of public authorities and other decision-makers in this field. **If you are interested in piloting the decision-making matrix within your organisation and/or would like further information on how to deploy it**, please contact us at leslie.a.stevens@ed.ac.uk and graeme.laurie@ed.ac.uk.
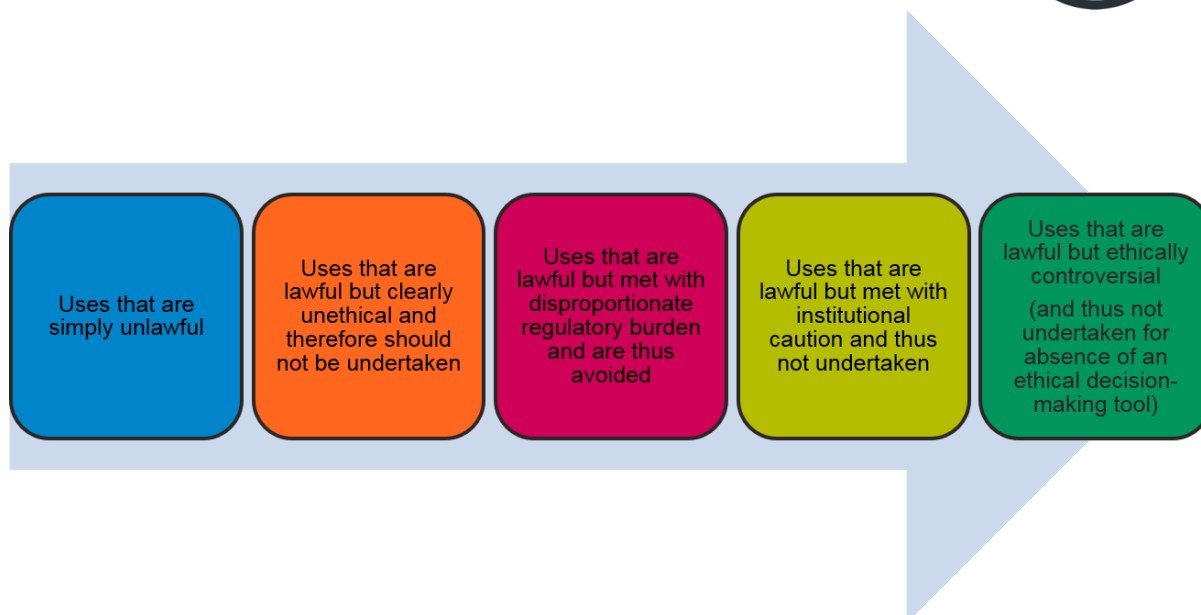
When considering how to proceed in the realm of data reuse, a crucial first step is to identify the *kinds* of challenges being faced. To assist data custodians in doing so Laurie and Stevens (2016) developed this novel decision-making matrix as an analytical framing tool to help understand the legal, ethical and organisational concerns at stake with such decisions. It also helps organisations to understand their own readiness to undertake responsible data sharing.

Administrative data custodians are faced with at least five possible scenarios in deciding to use and share data. The decision-making matrix unpacks what each of these five considerations means in practice for data custodians.

Contrary to the predominant focus of data custodians in the UK, the legal landscape is normally *not* the greatest barrier to the lawful and ethical use of administrative data. In fact, the law is often quite clear on whether a proposed use of administrative data is lawful or unlawful. Moreover, complexity should not be confused with lack of clarity. **The key question here is: are there specific legal provisions that expressly prohibit data uses?**

Uses that are lawful but clearly unethical and therefore should not be undertaken

The good governance of administrative data requires that each data use be not only lawful but also *ethical*. How, then, can a data custodian know when a proposed use of data is unethical per se? The ethical suitability of a proposed data use relates to the values underpinning action (and thus the collection and use of data) within the particular sector. Administrative data are first and foremost a public resource; it is information obtained only by virtue of an individual's interaction with their government. Use of data is underpinned by values focusing on citizens' care and services and a defensible commitment to public service. **The key question here is: how does the proposed data use relate to the core values underpinning the data custodian's interactions with the public?**

Uses that are lawful but met with disproportionate regulatory burden and are thus avoided

Regulatory burdens are often cited as a barrier to the reuse of data, and research suggests that this is a common experience and continuing concern. Initiatives involved in areas deemed sensitive, particularly controversial, or simply novel, will often be faced with enhanced regulatory scrutiny or are perceived to require such scrutiny and thus may be avoided on this basis. The proportionality of regulatory interventions must be routinely questioned. **The key questions here are: what are the actual and potential risks and harms, and equally what are the potential public interests and benefits at stake with the proposed data use and are the regulatory interventions proportionate in light of these?**

Uses that are lawful but met with institutional caution and thus not undertaken

This scenario arises where the law supports a particular data initiative but a confluence of institutional or organisational factors negatively impacts upon and eventually impedes the use of data. This scenario addresses factors specific to the sector or particular organisational culture that contribute to sub-optimal decision-making. Examples might include institutional concerns such as limited resources, risks to reputational damage, and a lack of clear incentives. Alone or together these can cause organisations and/or sectors to focus inwards in the name of caution when focus could just as easily – and perhaps more appropriately - be placed *outward*, on the *public* nature of administrative data as a public resource. **The key question here is: how does a particular data initiative support or detract from the public interests at stake for wider society in terms of potential and realisable benefits to particular groups, for the protection of privacy, for instilling confidence in an organisation, or sector's ability to deliver services to the citizenry?**

Uses that are lawful but ethically controversial (and thus not undertaken for lack of an ethical decision-making tool)

Finally, we come to scenarios where a data initiative may be lawful but is ethically controversial and ultimately not undertaken due to the absence of robust ethical decision-making tools. Every use (and reuse) of administrative data must have a clear purpose and public benefit subject to open and transparent dialogues through meaningful public and stakeholder engagement. Ethical decision-making frameworks facilitate the necessary level of reflection for not only lawful but justifiable courses of action, based on commonly recognised values, and through meaningful and effective engagement with relevant stakeholders. **The key questions here are: what resources and processes are available internally to assist in such deliberations? If none exist, what must be done to put them in place?**