



## Summary

The British Academy and Royal Society warmly welcome this opportunity to jointly respond to the consultation on the role and work of the Centre for Data Ethics and Innovation. The plans set out mirror many of the aspirations we set out in our report, *Data Management and Use*. This response has been produced with input from the Chairs and members of the Data Management and Use working group, who are listed at the end of the original report.

In this response we highlight the following issues in particular:

- Engagement in public dialogue should be an important part of the Centre's work and should feature more prominently in its stated role and objectives. This will include engaging with civil society groups and collaborating with organisations able to carry forward major public dialogue activities.
- The Centre will need to develop a culture around it that encourages people to come to the Centre and have mechanisms in place both to engage with and respond to the public directly. It will need to develop clear and open means for how other bodies can raise issues and topics.
- We hope that the Centre will continue to engage with the National Academies and their partner organisations to build on work such as our *Data Management and Use* report.
- We support the commitment to the three areas of "Analyse and anticipate; Agree and articulate best practice; and Advise on the need for action" but argue that in supporting the delivery of these critical functions across sectors it should primarily recommend actions to others, including making recommendations about how to fill a gap where there is no organisation carrying out an existing function.
- In terms of choices for early projects to take forward a useful approach would be to pick projects that are inherently relationship building, given that the Centre will work with and advise many other bodies across the governance landscape. It will also be important, in order to make swift progress on "well-defined, concrete projects that offer real-world practical benefits", to look at these areas in application to specific sectors.
- We feel that the balance struck in the proposal for the Centre to be placed on a statutory footing, but with no regulatory power, is a good one. It may be that an obligation to consult with and to take account of the Centre's recommendations should be placed on other regulatory bodies if this is necessary to ensure they take account of the Centre's findings.
- We are very mindful of the fact that role of the Centre and its place in the landscape are likely to change and develop as data-enabled technologies become more widely adopted and new challenges emerge. The Centre will need to be flexible, agile and to guard against locking itself into ways of working now that may end up being counterproductive over the longer term.
- It is absolutely right that the Centre should make its arguments and recommendations public. At times in its work there will be inevitable disagreement or even conflict, and fostering openness and as great a degree of transparency as possible will enable the Centre to develop trust amongst the many different parties which have an interest in its work.

## Background and context

The British Academy and Royal Society warmly welcome this opportunity to respond to the consultation on the role and work of the Centre for Data Ethics and Innovation. The plans set out mirror many of the aspirations we set out in our report, *Data Management and Use*. That report highlighted the fact that, as data collection activities continue to increase in speed, scale and variety, and the analytic techniques used to process these datasets become more sophisticated, individuals and communities are affected in new and unexpected ways. We noted that the changing nature of data management and data use, the evolving technological context, and the shifting meaning of core governance concepts, place today's systems for data governance under stress. We therefore called for a body to steward the evolution of the governance landscape as a whole.

In our report, we argued for a principled approach to data governance, and that the promotion of human flourishing was the overarching principle that should guide the development of systems of data governance. We also argued that systems of data governance should:

- Protect individual and collective rights and interests
- Ensure trade-offs affected by data management and data use are made transparently, accountably and inclusively
- Seek out good practices and learn from success and failure
- Enhance existing democratic governance

We argued that this body should not duplicate the efforts of any existing body but would seek to ensure that the complete suite of functions essential to governance and to the application of the high level governance principles is being carried out across the diverse set of public and private data governance actors. These functions would include activities to anticipate future challenges and to make connections between areas of data governance.

As stated in that report, the functions that the body should oversee are to:

- **Anticipate, monitor and evaluate:** considering alternative futures, managing risks, keeping pace with changes, and reflecting on performance
- **Build practices and set standards:** enabling and continuously improving well-founded practices that can be spread quickly across relevant sectors and uses
- **Clarify, enforce and remedy:** ensuring sufficient arrangements for evidence gathering, debate and decision-making, and for action in the forms of incentives, permissions, remedies for harm, incentives and penalties

In order to oversee the governance landscape and this diversity of functions effectively, we argued that a stewardship body should be:

- **independent** from industry, civil society, academia and government, to develop and maintain a reputation as a trusted voice on issues of contention and controversy
- **deeply connected to diverse communities**, to create dialogue with and between publics, industry, civil society, academia and government
- **expert across and beyond disciplines**, to draw on diverse sources of knowledge, ideas and on a wide range of practitioners to tackle the daunting unresolved questions raised by the present and future of data governance
- **tightly coupled to decision processes**, shaping agendas and implementation, and referred to formally or informally
- **durable and visible**, set up with a timeframe long enough to build the needed trust, legitimacy and visibility to maintain broad and lasting confidence

- **nationally focused but globally relevant**, to shape thinking on an international level and learn from and adapt world-leading evidence and experience

The responses below are informed by these conclusions, which were developed following extensive engagement with a wide range of communities concerned with data governance; and by further engagement and activities following the publication of that report. They have been produced with input from the Data Management and Use working group members, who are listed at the end of the original report.

### **Q1 – Do you agree with the proposed role and objectives for the Centre?**

The role and the objectives set out appear to be eminently sensible and in many ways reflect the vision for a stewardship body which we set out in our report. As our report states, there is a clear need for effective stewardship of the landscape as a whole and so we welcome the emphasis in the consultation on the role that the Centre for Data Ethics and Innovation will have in convening, connecting and building on insights and practices and translating them into real-world actions. The twin focuses of the Centre on ethics and innovation are appropriate to enable the safe and rapid uptake of beneficial data-enabled technologies, since, despite the positive aspects of this duality noted in Section 2.3 of the consultation document, there is sometimes a tension between them.

We support in particular the statement that “the Centre is likely to advise across a broad range of action, from soft measures to support and guide businesses within existing governance frameworks, to identifying where we potentially need to prevent or enforce particular behaviours through legislation and regulation.” As set out above, we see the need to oversee the full range of functions across the governance landscape, looking beyond regulation and including providing advice and setting standards of best practice. Similarly, we support the commitment to anticipating “longer term issues emerging on the horizon”, with this anticipatory and horizon scanning activity core to stewarding effectively the data governance landscape.

The view we set out in our report was that a body overseeing the data governance landscape should conduct inclusive dialogue and expert investigation into novel questions and issues, and tenable new ways to anticipate the future consequences of today’s decisions. This role is included but should feature higher up in the Centre’s objectives and be given slightly more prominence.

One aspect of conducting inclusive dialogue is the role that the Centre could, and in our view, should play in terms of finding out what the public know and think. This might well be through collaboration with other organisations able to carry out dialogue effectively, and will also involve engagement with civil society groups – as set out in response to the next question.

### **Q2 – How best can the Centre work with other institutions to ensure safe and ethical innovation in the use of data and AI? Which specific organisations or initiatives should it engage with?**

It will be important that the Centre develops both proactive and reactive engagement with others. In addition to seeking out other institutions and people to engage and work with the Centre will also need to develop a culture around it that encourages people to come to the Centre and have mechanisms in place both to engage with and respond to the public directly. It will need to develop clear and open means for how other bodies can raise issues and topics.

We would expect that the National Academies are amongst the institutions with which the Centre would want to work in “drawing on the work of [the UK’s] renowned institutes, learned societies and think tanks” and the British Academy and Royal Society certainly both look

forward to developing a positive working relationship with the Centre and using the expertise within our Fellowships to support the work of the Centre. Between us we are already committed to a number of activities with which we hope the Centre will engage, such as the Royal Society's cross-European work with the European Academies on flourishing in a data enabled world; a planned seminar between the Academies and working with techUK on 'Data ownership, rights and control: reaching a common understanding'; and Society work on the role of privacy enhancing technologies in underpinning good data governance practices.

We are pleased to see the Ada Lovelace Institute (ALI) – in which the British Academy and Royal Society are partners – listed as one of the bodies with which the Centre aims to work closely. With existing data governance concepts under unprecedented strain, there are a wide range of issues to be addressed from the very practical to the deeply conceptual. It is essential that the key bodies, such as the Centre, the AI Sector Council, the ALI, the Alan Turing Institute and others, establish their complementary roles and describe the landscape in a consistent fashion. In particular, for example, we see the CDEI as examining challenges and opportunities that are already known or anticipated, whereas the ALI will have scope to look further ahead to the direct and systemic consequences of data sciences in the future. International co-operation, especially with international regulators and the European Commission will also be vital.

It is also important to note that innovation is evident in large part in new data-based start-ups and engaging with these firms at a very early stage will be beneficial, both in terms of maximising the benefits of technology and also ensuring that new entities adhere to ethical standards from inception.

The Centre will also want to ensure that civil society is represented in its work. Data, including open data, is increasingly important for the work of a wide range of community groups operating at a very local level. Incorporating these groups into conversations about data and its complexities is important not just for good data governance in their own operations but they can also play a useful role in holding public and private institutions to account.

In addition, it is important given the public dialogue role for the Centre that it engages with those bodies able to carry forward major public dialogue activities. Such activities require significant resource and expertise and the Centre must connect with that through existing bodies.

### **Q3 – What activities should the Centre undertake? Do you agree with the types of activities proposed?**

The commitment to the three areas of “Analyse and anticipate; Agree and articulate best practice; and Advise on the need for action” mirror our ABC of governance functions, as set out above. The Centre should focus on ensuring that all of the tasks in the table on page 14 are carried out effectively, but in doing so will need to work with others and promote the work of others, given the scale of the tasks. As set out in our report, these functions are carried out by a wide variety of public, private and civil society actors. These include the Information Commissioner's Office (ICO), the UK Statistics Authority, research funding agencies, non-governmental organisations (NGO), universities, the judiciary, industry bodies and professional societies. Some actors are sectoral, such as in the National Data Guardian's role with respect to data in medical uses, while others such as the ICO work across sectors. Governance in the UK is, of course, also considerably informed by international frameworks.

These functions should therefore be carried out across the governance landscape and the role of a body such as the Centre should be stewardship of the whole landscape, rather than being directly responsible for implementation within specific domains on a permanent basis.

The purpose should be to *support* delivery of the full breadth of critical functions and as such the Centre should primarily recommend actions to others, including making recommendations about how to fill a gap where there is no organisation carrying out an existing function. However it may also need the capacity to carry out some functions itself if they could not be performed elsewhere, being careful not to duplicate existing efforts. The Centre should review the landscape to be clear where these functions cannot currently be carried out elsewhere.

**Q4 – Do you agree with the proposed areas and themes for the Centre to focus on? Within these or additional areas, where can the Centre add the most value?**

In terms of the list of six proposed areas we note that many of these are focused on problems or issues and not many focused on areas of opportunity. It is important that the proposed areas strike an appropriate balance between areas of concern and positive opportunities presented by AI and data. The Centre will have an important role in identifying things that could go wrong in our rapidly evolving data landscape, but also identifying the good things that can happen through innovation. The work of the Centre is important in ensuring that these benefits are enabled, and not inadvertently prevented from being realised.

This can include the benefits of making better use of data across national and local government. This would involve addressing the issues of *data access* as set out in the consultation document in relation to public data in particular.

**Q5 – What priority projects should the Centre aim to deliver in its first two years, according to the criteria set out above?**

The areas, themes and activities set out are all important but are broad and many are being addressed by existing organisations, for example, there is already a body of work going on in the *financial* sector to understand how digital markets impact on current financial regulation. In terms of choices for early projects to take forward a useful approach would be to pick projects that are inherently relationship building, given that the Centre will work with and advise many other bodies across the governance landscape. It will also be important, in order to make swift progress on “well-defined, concrete projects that offer real-world practical benefits”, to look at these areas in application to specific sectors.

Therefore it would be valuable to focus on issues that require engagement with existing governance and regulatory bodies both to build these relationships and engage on these practical issues, providing an ethical overview and collaborating in this way is likely to be welcomed by these bodies. Examples might be working with the *insurance* industry to identify ways to take up AI technologies ethically; to engage with *consumer* bodies on the question on data rights and ‘ownership’; and working with the *media regulators* on issues relating to robust content in digital media.

We agree with the critical need to review the landscape and so are pleased to see that a review of the existing regulatory framework and the identification of gaps is listed under the proposed activities. Enabling regulators to become more prepared is a key role that the Centre can play and so a review of this nature is an important first step towards that. It will also enable the identification of these more concrete projects discussed above.

**Q6 – Do you agree the Centre should be placed on a statutory footing? What statutory powers does the Centre need?**

We feel that the balance struck in the proposal for the Centre to be placed on a statutory footing, but with no regulatory power, is a good one. The Centre should have an advisory

role but does not need to have regulatory powers itself and a regulatory role may be an inhibitor to bodies engaging with the Centre. If the Centre is put on a statutory basis in the future, its powers should be informed by the experience of its first years of operation, and should have sufficient flexibility to enable it to respond to continued unpredictable scientific, technical and social changes.

Subject to experience, it may be that an obligation to consult with and to take account of the Centre's recommendations should be placed on other regulatory bodies if this is necessary to ensure they take account of the Centre's findings. This could be along similar lines to the provision contained within the Digital Economy Act 2017 that requires bodies to consult the ONS prior to making any amendments to their data collection strategies. In this, experience of the Centre's non-statutory operation should be a guide, noting that the prospect of the Centre being in future on a statutory basis itself will inform the reactions of other stakeholders from the start.

**Q7 – In what ways can the Centre most effectively engage stakeholders, experts and the public? What specific mechanisms and tools should it use to maximise the breadth of input it secures in formulating its actions and advice?**

The resources needed to undertake meaningful public engagement should not be underestimated so it will be important to ensure that the Centre has sufficient capacity to undertake this work. As mentioned above, this will no doubt mean collaboration with existing bodies with the resource and expertise to do this effectively.

We are very mindful of the fact that role of the Centre and its place in the landscape are likely to change and develop as data-enabled technologies become more widely adopted and new challenges emerge. This is particularly the case as the Centre begins its work and begins to embed itself into landscape. This will evolve and so the Centre will need to be flexible, agile and to guard against locking itself into ways of working now that may end up being counterproductive over the longer term.

There is no blueprint for the Centre, nationally or internationally, but there are elements of good practice and of experience from which it should draw and build. This should include considering and learning from practice with respect to other emerging technologies, noting that each case will have both similarities and differences. With this in mind, organisations such as the Human Fertilisation and Embryology Authority, NESTA, ScienceWise, the Financial Conduct Authority, and the Better Regulation Executive will all be potential sources of interest, as will international experience including in Japan, New Zealand, Canada and France (this list is illustrative, not systematic or exhaustive).

The Board of the centre should enable it to engage across public and private sectors and the research community, and across a broad range of areas of practice, expertise and disciplines. Breadth of expertise and experience will be essential to ensuring that the Centre retains independence and can engage across communities.

**Q8 – How should the Centre deliver its recommendations to government? Should the Centre make its activities and recommendations public?**

We agree with the proposals that the Centre's reports to government should be made public at the point of delivery. We note that this may preclude it from dealing with some matters of national security or commercial confidentiality. However, it is absolutely right that the Centre should make its arguments and recommendations public, as the consultation document rightly points out the Centre must secure credibility and trust in its work. At times in its work there will be inevitable disagreement or even conflict and fostering openness and as great a degree of transparency as possible will enable the Centre to develop trust amongst the many different parties which have an interest in its work. We expect that the principled-basis

on which recommendations will be made should enable lessons to be learned across sectors from the recommendations the centre makes.